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STATE TRIALS

POLITICAL AND SOCIAL

SELECTED AND EDITED

BY H. L. STEPHEN

ESQUIRE, OF THE INNER TEMPLE, BARRISTER-AT-LAW;
ONE OF HIS MAJESTY'S JUDGES OF THE HIGH COURT
OF CALOUTTA

(SECOND SERIES)

VOL. III.



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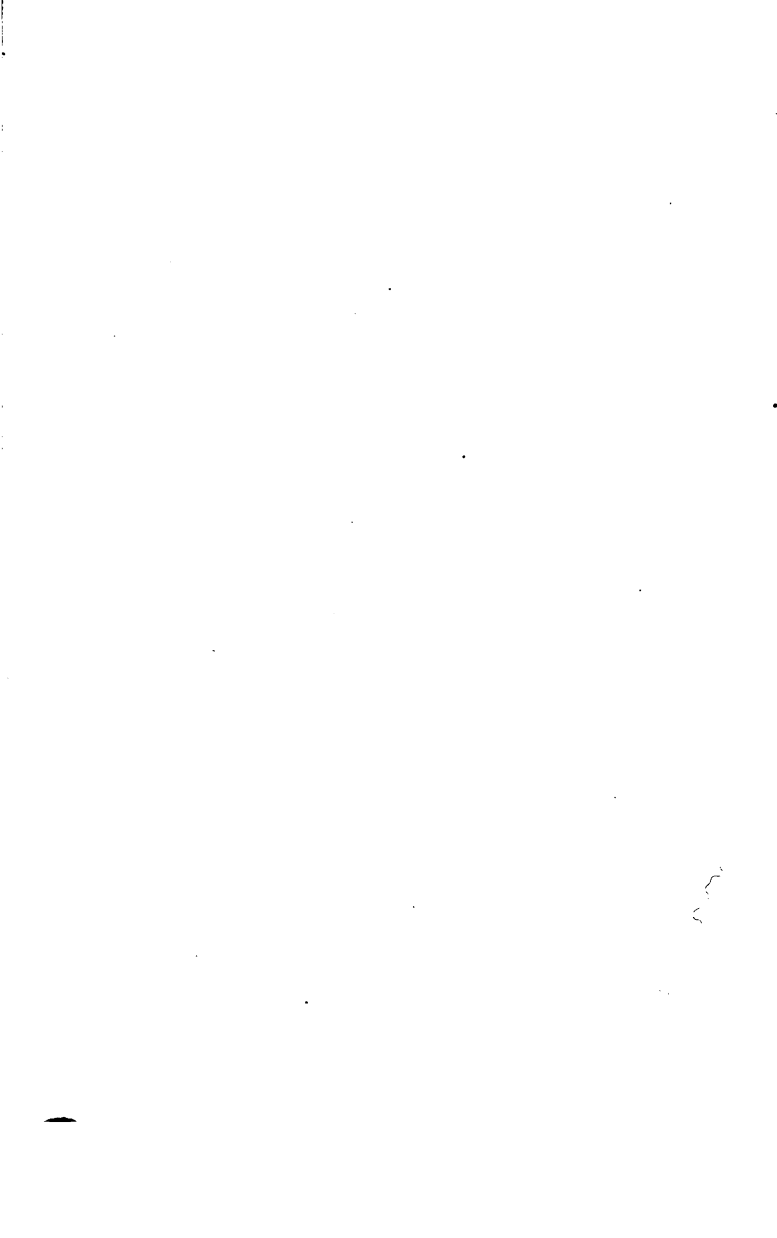
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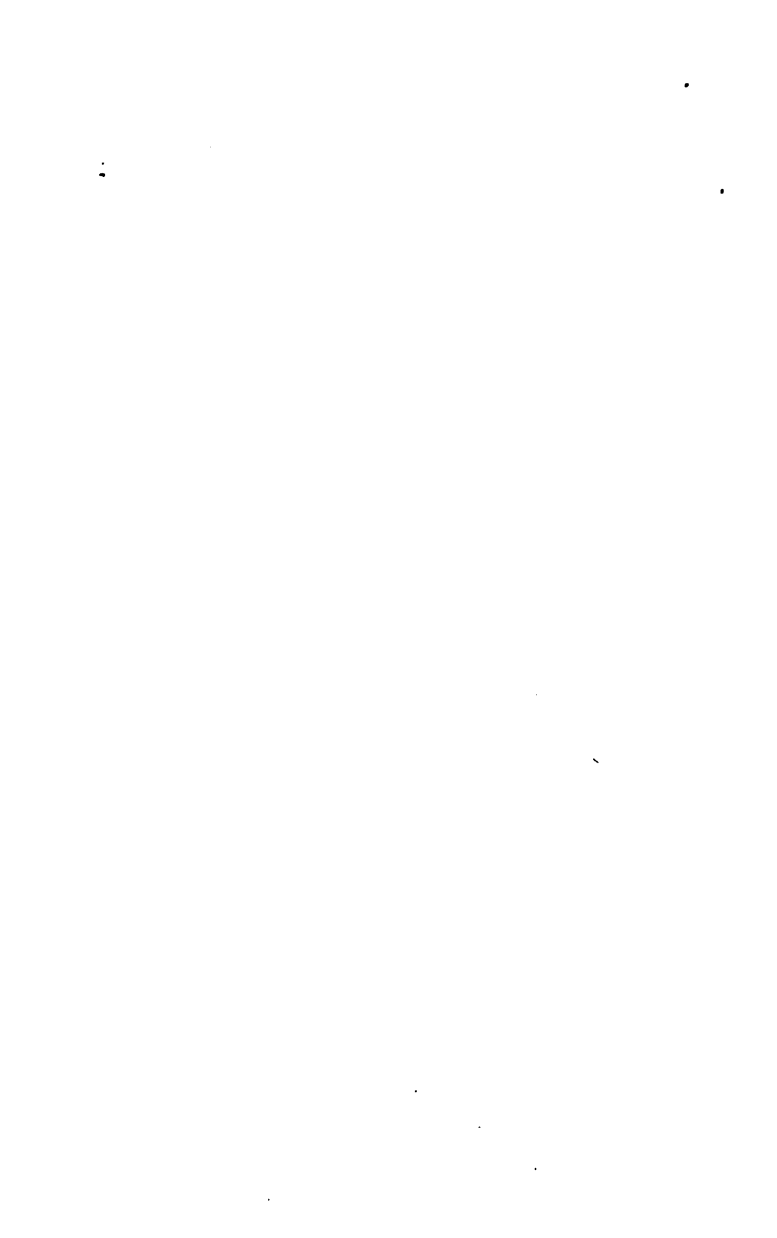
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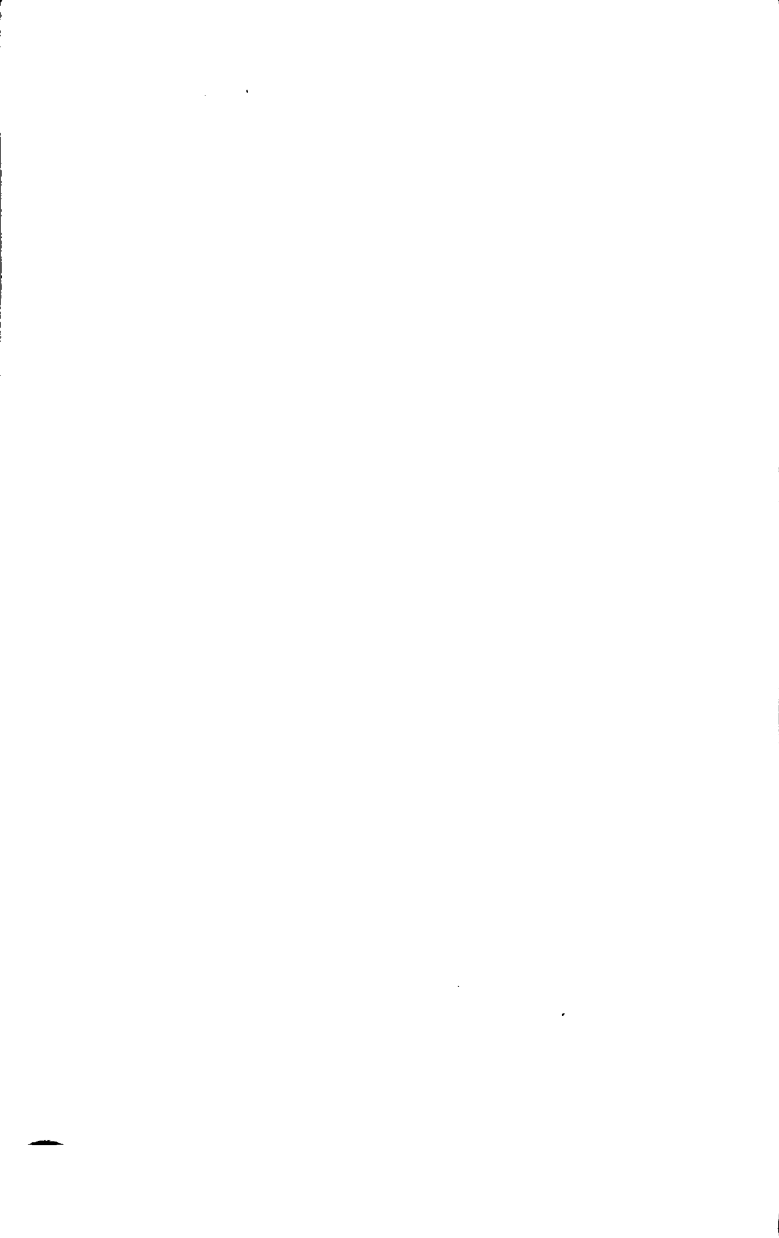


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STATE TRIALS

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Walter S. P. S. P. S. P.

*Sir Robert Devereux, K. G.
2nd Earl of Essex.*

THE TRIALS CIVIL AND SOCIAL

SELECTED AND EDITED

BY H. L. STEPHEN

OF THE INNER TEMPLE, BARRISTER AT LAW;
AND HIS MAJESTY'S JUDGE OF THE COURT
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1863

second earl, whom he succeeded in 1581, and thereupon became the ward of the king, practically of Lord Burghley. After some time spent at St. John's College, Cambridge, he entered Gray's Inn in 1589. The next year he was introduced to the court, at the age of seventeen, and laid the foundation of his friendship with Essex. After seven years of court life, he took part in Essex's expeditions to Cadiz and the Azores as a volunteer; and on returning to court, was appointed to a subordinate place in an embassy sent to Paris under Sir Robert Cecil in 1598. He followed Essex to Ireland in 1599, but Elizabeth refused to allow him to be appointed general of the horse. In July 1600 he went to Ireland to attempt to persuade Montjoy, the new deputy, to use the army he had at his disposal against Elizabeth. His part of the development of the plot is indicated in this trial. On Cecil's intervention the punishment of death to which he was sentenced was commuted to imprisonment for life; but he was released on the accession of James I. (1603), and re-created Earl of Southampton. Other marks of royal favour followed, and he was frequently employed in public affairs, though generally only on ceremonial occasions. He helped to found the colonies of Virginia and Bermuda, and to send Hudson to explore for the North-west Passage. His most important participation in public affairs

in later life, consisted of his opposition to Buckingham, and his participation in the attack on Bacon. He was well known throughout his life as a patron of literature, and is now chiefly remembered as having been a liberal patron to Shakespeare, who refers to him in many of his sonnets, and dedicated to him others of his less well-known works.

It is impossible to give any account of Essex's trial without referring to the most remarkable man connected with it. It is equally impossible to discuss the part played in it by Bacon (1561-1626) within the compass of a few lines. I suppose one may safely take Macaulay as leading counsel for the prosecution, so to speak, and Spedding, of course, represents the leading and any number of junior counsel for the defence. It would not be quite fair to put Macaulay's case in the form of quotations from his famous essay, but I think his views may be analysed thus. Bacon was guilty of ingratitude and treachery in taking the part he did against Essex ; for when Bacon's fortune was still to make Essex was at the height of his court favour, but he made Bacon his intimate friend, did his best to procure him professional promotion, tried to procure him the wife he wanted (though she was the future Lady Coke, see vol. i. pp. 14, 15), and gave him a valuable estate, so that at the time of the trial whatever success Bacon had achieved was in a

large measure due to Essex's efforts. On the other hand, as long as Essex was prosperous, Bacon served him with all his powers; as the tide turned, Bacon began to look round for another patron. At the crisis of Essex's fate, the time of his lord-lieutenancy in Ireland, he discovered that other patron in Elizabeth, to whom he gradually transferred his allegiance; at last, when Essex's affairs were desperate and his ruin assured, not only did his friend fail him, but he appeared as his accuser; not only did he appear as his accuser, but he disgraced himself and his profession by exaggerations of Essex's guilt which he knew to be untrue, and which he intended should debar Essex from the Queen's mercy. In reply to this, the more general part of this accusation, I cannot refrain from quoting a passage from *Evenings with a Reviewer*, vol. i. p. 180:—

‘ You see, therefore, that upon my view of the matter, everything is plain and natural. There is nothing strange to account for. According to Bacon's scale of duties, the degrees were—first, your God; next, your king and country; then your friend; last, yourself. For a long time all these duties drew in a line. Essex, when they first became acquainted, seemed the likeliest instrument for the service of religion and the state. While he was moving in that direction, Bacon strengthened him for the service with the full force of his own counsel and industry. When he began to look aside from the path, Bacon laboured to keep

him in it. When he swerved, Bacon laboured to win him back. When he got fatally astray, Bacon laboured to arrest his course, and to keep him quiet, if he could not keep him right. When this, too, was hopeless, and his fortunes became dangerously involved, Bacon still laboured to save him from becoming desperate. When at last he turned quite round and was coming headlong in a direction exactly opposite to that along which they had both begun, and one still continued to travel, Bacon withstood him to his face. When the act of so withstanding him raised against the government discontent and disaffection, Bacon stood forward to take his own share of the odium, and would not (for fear of what men might say) shrink from justifying cause which he knew to be just.'

Going more into particulars, Spedding points out that Essex's rebellion appeared at the time far more dangerous than we know that it was. Immediate investigation by the most capable persons who could be trusted was imperative; and for Bacon to have refused his services to the Queen, that is, to his country, would have resembled the refusal of a soldier to fight for her. The confession of Essex's confederates revealed a state of things which made the immediate trial of Essex a necessity (the rebellion was on the 8th, the trial on the 19th, the execution on the 25th of February); and with Bacon's knowledge of the case, and considering the necessity of proving Essex's guilt, not only to the court, but to the country, he had no

choice but to appear in the trial. Spedding's vindication of Bacon's conduct of the case is too elaborate for me to indicate its nature here ; but I may perhaps be allowed to say that it seems to me to dispose completely of Macaulay's attack.

In conclusion of these preliminary remarks, I have to dwell a little on the origin of the following report. It is practically a transcript of a hitherto unpublished ms., which pretty certainly represents the report of an intelligent eyewitness, I should suppose a barrister, made from notes taken in court. The ms. is admirably written in what I am informed is the characteristic court hand of the period, and bears on its first page, 'Lionel Tolmach—1600, of Bently.' It has been in the possession of the Tollemache family since it was written, and is now at Helmingham, and is the property of Lord Tollemache, to whose courtesy and generosity my readers are indebted for the curiosity of the following pages. As the Tollemaches are connected with the family of Lord Essex, that is to say, the Elizabethan Earl, not the present one, Spedding surmises that the ms. was written expressly for Lionel Tollemache, and that the writer paid particular attention to Essex's speeches and behaviour. Here Spedding's customary diligence fails him for once, as the connection between the Tollemaches and Devereux did not take place till a much later period. It may also

be added that there are several other similar ms. accounts of the same trial in the British Museum, though whether or how far they may be treated as containing the same report I am not in a position to say. The chief points in which the following report differs from the ms. is that contractions have been expanded, a few obvious mistakes have been corrected, such corrections being marked by square brackets, and I have arranged the stops and paragraphs according to the modern fashion in such matters.

The historical interest of the ms. lies in the facts, firstly, that it arranges the witnesses in a different order from that followed in the ordinary account; secondly, that it increases the importance of the part in the trial played by Bacon. As to the first matter, the reader must bear in mind that when Essex came into court, he was not aware that the Government could prove anything against him except his conduct at his own house, and in the city. This he might hope to excuse by his first plea of the necessity for self-protection against his personal enemies; but at the end of Coke's opening speech he learns that the Government know of the plotting at Drury House, and as the witnesses are called he finds they can prove it. This throws him back to his second plea, that his intention was only to procure an opportunity for a personal appeal to the Queen. As to Bacon, the ms. shows that twice

over the real point of the case was in danger of being hidden by the mass of irrelevancies, of which it so largely consists, and on both occasions Bacon comes to the rescue, and restores the main line of the argument. The procedure followed was plainly of the loosest possible kind. Essex was defending himself more or less at random, and Coke's bad temper and virulence led him to follow up his enemy wherever he went. If Bacon's cool head and clear mind did not procure the verdict, they must at all events have been a most important feature in the trial. To show how the differences between the various reports bear on the trial, or to discuss its details further, would be out of place here; but if any of my readers feel inclined to look further into a most curious story, they will find in Spedding's *Letters and Life of Bacon* the best critical account of a trial with which I am acquainted. I have drawn on that account with some freedom in the notes to this trial; it is also from the same work that I learned of the existence of the Helmingham ms.

THE HELMINGHAM MS.

The Arraignment, conviction and condemnation of Rob. Earle of Essex, and Henrie Earle of Southampton houlden at Westminster the XIXth. of Febr. 1600 43rd Reg. before the Lord high Steward¹ appoynted for that daye beeing the Lord Treasurer of England, as followeth :—

There was built for that daye at the upper end of Westminster Hall a Scaffold in forme of a Court or Tribunall some ij yards high, and about vi yardes

¹ Thomas Sackville, first Earl of Dorset, and Baron Buckhurst (1536-1608), was the son of a wealthy knight of Sussex. In Mary's reign he sat in the House of Commons for Westmoreland; in Elizabeth's, for East Grinstead and Aylesbury. He was created Lord Buckhurst in 1567, the year after his father's death, and was subsequently employed on various diplomatic missions. He also sat as a Commissioner in the trials of the Duke of Norfolk, Anthony Babington, and the Earl of Arundel. He was nominated as a Commissioner for the trial of Mary Queen of Scots; and though he did not sit at her trial, he was sent to Fotheringhay in 1586 to announce to her the sentence of death. He was sent to Holland in 1587, after Leicester's expedition, to explain to the Dutch that Elizabeth was unable to afford them any more assistance; but on Elizabeth changing her mind, he was disgraced. He was, however, soon restored to favour, and succeeded Burghley as Lord-Treasurer in 1599. He continued in favour in James's reign, and was created Earl of Dorset in 1603. He built a great part of Knole House as it now stands. In his youth he wrote a certain quantity of poetry, of which *The Mirror*, or rather the earlier part of it, is the best-known work.

square, on the west parte whereof was erected a Cloath of Estate, under which the Lord High Stewardes grace representing Her Maiesties person did sitt as Judge; on each side of that Chaire of Estate weare Arras hanginges, without anie other seates. On the South and North partes of this Court weare Benches lined with greene Cloth, for the Peers to sitt uppon, whoe weare placed in their Order, eche observinge a second course with the like on the opposite parte. As first the annicientest in Nobillitie or Highest in Dignitie; on the South parte beinge the right hand of the Lord High Steward, then the next annicientest on the North parte beinge the left hand, and so by tourne to the lowest. On the East parte opposite to the Chaire of Estate was framed a barre or pewe rayled round for the twoe prysoners. On the North side whereof was the Entrance into ye Court which was leadd too by a longe Gallerie about 10 foot wide of equall hight wth. the Court, reachinge as farre as from the Common place, where the ascent was some 10 staires. In the middest of this Court was raised a square table about one ffoote higher then the Ground of the Scaffold, covered with greene cloth, about which was lett in a narrowe place where the Judges and Queenes Counsell sate, before the prisoners and peers: so as they sate uppon the same floore, the Peers and prysoners trode on. At the Upper side of this Table before the Lord Highe Steward was cutt in a little pewe for the Clerkes of the Crowne to sitt in, which weare twoe; And the Sergantes of ye Mace laye uppon the Table ready to Sommon the Court and Convey Evidences as need required. The Judges weare devided some sittinge on the South some on the Northe side of the Table before ye Peers.

They were these.

The Two Cheeff Justices ¹	The Queenes Counsell
Lord Cheeff Baron ²	sate before the prysoners
Justice Gawdye ³ (p. 15)	and were :
Justice ffenner ⁴ (p. 15)	Sergeant Yelverton ⁵ (p. 16)
Justice Walmesly ⁶ (p. 15)	Mr. Attorney ⁹ (p. 16)
Baron Clearke ⁶ (p. 16)	Mr. Solicitor Mr. Bacon
Justice Kingsmill ⁷ (p. 16)	Mr. Recorder.

In the morninge about 8 or 9 of the clocke (most

¹ Popham, L. C. J., and Anderson, C. J., see vol. i. p. 10.

² Sir William Periam (d. 1604) was apparently educated at Exeter College, Oxford, and his arms are to be found in the windows of the Middle Temple Hall. Otherwise nothing is known of him till he was made a serjeant in 1579, two years after which he was raised to the bench in the Common Pleas. He took part in the trials of Mary Queen of Scots (1586), Lord Arundel (1589), and Sir John Perrot (1592). In 1593 he became Chief Baron, in the enjoyment of which office he died in 1604. His third wife (who had had two previous husbands) was the benefactor of Balliol.

³ Sir Francis Gawdy (d. 1606) was admitted to the Inner Temple in 1549, and made serjeant in 1577, and Queen's serjeant in 1582, in which capacity he opened the case against Mary Queen of Scots (1586), and took part in the proceedings against Davison (1587). In the next year he succeeded his brother as a judge of the Queen's Bench, and took part in the trials of Perrot in 1592, of Essex at York House (1600), and of Raleigh (1603). He became Chief Justice of the Common Pleas in 1605. Foss suggests that he owed his first promotion to the marriage of his daughter with Hatton's nephew, and his second to the marriage of that daughter's daughter to Rich, the second Earl of Warwick; he also points out that a somewhat inept remark in Raleigh's trial (vol. i. p. 37) is the only speech of Gawdy's to be found in the reports of the state trials in which he took part.

⁴ Edward Fenner (d. 1611) of the Middle Temple was made a serjeant in 1577, and became a judge of the King's Bench

part of the Peers being come before, The Lo: High Steward repayred to the Hall with 7 mases and a longe white Rodd borne before him accompanied with the Rest of the Peers, savinge the Lo: Thomas Howard, Constable of the Tower, who about halfe an hower after the Peers weare sett brought Robert Erle

in 1590. The only remarkable trial with which he seems to have been in any way connected besides the present one, was that of John Udall (1590), 1 *State Trials*, 1297.

⁵ Sir Thomas Walmesley (1537-1612), born of a good Lancashire family, was called at Lincoln's Inn in 1567, and made a serjeant in 1580. He represented his native county in the House of Commons in 1588, and was raised to the Bench in the Common Pleas in 1589. He sat on the Commission which tried Essex at York House (1600), and on that which tried the persons accused of complicity in the 'Bye' plot (1603, see vol. i. pp. 4, 5). When Calvin's case was argued in the House of Lords he, alone of the judges, dissented from the judgment of the majority. He kept an account-book of his expenses on the Western Circuit during five years, which is curious (*Camden Miscellany*, vol. iv.), and see *Foss*, vol. vi. p. 193.

⁶ Sir Robert Clarke (d. 1606) was called at Lincoln's Inn in 1568, and was made a Baron of the Exchequer in 1587. He tried Udall for libel at Croydon in 1590, 1 *State Trials*, 1277.

⁷ Sir George Kingsmill (d. 1606), the grandson of a judge in the time of Henry VII., was called in 1567, became serjeant and Queen's serjeant in the year 1594, and was raised to the Bench in the Common Pleas in 1599.

⁸ Sir Christopher Yelverton (1535-1612), coming of a legal family, entered Gray's Inn in 1552. He represented Northamptonshire in the House of Commons more than once, was appointed Recorder of Northampton before 1572, Speaker in 1597, and became a serjeant in 1589, and Queen's serjeant, in which capacity he appeared in this trial in 1598. He became a judge in the King's Bench in 1601, and was knighted on the accession of James I.

⁹ Sir Edward Coke (1552-1634), see vol. i. p. 13.

of Essex with axe borne before him, the Edge from him, and Sir William Woodhouse brought presentlie after him, Henry Erle of Southampton. The Erle of Essex was apparrelled in a Blacke Satten Sute, a wrought vellvett Gowne of the same coullour, a blacke ffelt hatt faced with vellvett, a Ruffe Band with a Syngle sett, and a fall underneath it. The Erle of Southampton hadd on a Sadd coullered sute of ffustian or like stuff, a Gowne of Cloth with longe slender sleeves wherein he held his handes for the most parte of that daye. When the Erles mett they saluted eche other at the Barre with Kynde and cheerefull salutacion. The Erle of Essex, his Countenance was all that daye verie cheerfull and confydent. The other Erles somewhat sadd, but without dismay: when they weare entred the Barre, the Axe was sett before them next to the Erle of Essex, and so con-tynewed.

The Courte beinge sett one of the Sergants of the Mace made an Oyes, sayinge. The Lo: Highe Steward straightly chargeth and commandeth all persons present to keepe sylence, and heare her Maities. Commyssions readd oppon payne of Imprisonment. Then weare ij Commissions readd: The first Commission auththorizinge the Lo: Highe Steward to be Judge of their Causes. The other of Oyer and terminer of Treasons, ffellons, etc. By vertue whereof the Inditementes weare founde.

Then made he a second Oyes sayinge. The Lo: Highe Stewarde chargeth and Commandeth all Justices, Commissioners and other persons which have anie writtes to them directed, by the Lord Highe Steward for the Certifyinge of anie Inditementes that they retourne their writtes, and bringe in their Indite-

mentes before the Lord Highe Steward upon payne that shall followe thereon. Then the Sergant made another Oyes sayinge Livetenanntes of the Tower retourne thy writ to thee directed, and then livetenant of the Tower bringe in thy prysoners, Robert Erle of Essex and Henry Erle of Southampton accordeinge to the tenour of the same precept to the Barre. Then the Sergant made another Oyes, sayinge Sergant at Armes, retorne thy precept of names onto the[e] directed of Earles, Vicountes, Barrons, Peers of Robert Erle of Essex and Henry Erle of Southampton accordinge to the tenor of the same precept.

Then makinge another Oyes, he said, all Erles, Vicountes, Barons, Peers of this Realme of England, sommoned to be heere this daye for the triall of Robert Erle of Essex and Henry Erle of Sowthampton, Annsweare to your names as you shalbe called and heereabouts the Erle of Essex said, My Lordes I could have thought and wisht that this matter might have benn rather censured in the Starre Chamber, as a mysdemeanour then heard heare as a matter of treason. To which nothinge was aunswered but the Lordes called as followeth :—

1. Edward Erle of Oxford. 2. Gilb. Erle of Shresbury. 3. William Erle of Darby. 4. Henry Erle of Worster. 5. George Erle of Cumberland. 6. Robert Erle of Sussex. 7. Edward Erle of Hartford. 8. Henry Erle of Lincolne. 9. Charles Erle of Nottingham. 10. The Vicount Binden. 11. The Lord de la Ware. 12. Edward Lord Morley. 13. Henry Lord Cobham. 14. Edward Lord Stafford. 15. Thomas Lord Gray Wilton. 16. John Lord Lumly. 17. Henry Lord Winsore. 18. Robert Lord Rich. 19. Thomas Lord Darcy. 20. William Lord

Shandowes. 21. George Lord Hunsden. 22. Oliver Lord St. John. 23. Thomas Lord Burleigh. 24. William Lord Compton. 25. Thomas Lord Howard.¹

To their call they annswered everie one (Heare)

¹ These peers were, I suppose, all those who were conveniently available, and as was likely to be the case, many of them were connected with Essex, and most of them to one another. They were all courtiers, and could probably at the time have all been classified as Essex's friends or enemies. Among the former we may reckon Lord Chandos (Shandowes), who visited Essex at his house on the morning of the day of his insurrection, whose son was arrested as one of Essex's accomplices, but liberated without being tried, and to whose niece, Elizabeth Brydges, Essex had paid sufficient attention to arouse the jealousy of the Queen; also perhaps the Earl of Suffolk, who had been knighted by Essex on his Cadiz expedition. The latter included the Earl of Nottingham, the Lord High Admiral, Lord Burleigh, and above all Lord Grey. Nottingham, better known as Lord Howard of Effingham, had insisted on returning home after Essex had taken Cadiz, without attempting to intercept the Spanish treasure fleet, and a definite quarrel had arisen in consequence. Burleigh (eldest son of the great Burleigh) no doubt shared in the family feelings about Essex, and had in fact seized the opportunity of an absence from his post of President of the Council of the North for taking a leading part in the suppression of Essex's insurrection. Grey, after serving under Essex in the Azores expedition, had quarrelled bitterly with both Essex and Southampton in Ireland, and a few weeks before the trial had been committed to the Fleet for assaulting Southampton in the street. It was indeed this assault which gave Essex an opportunity of declaring that his life had been in danger. Essex's relations to Lords De La Ware and Morley were certainly of a delicate kind, as he had to some extent implicated their sons in his treasonable schemes. Altogether it seems probable that Essex would have had a fairer trial if he had not been tried by his peers. It is a curious example of

and made their appearance; about the call of the Erle of Worster the Erle of Essex interrupted the Sergeant speakinge to this effect. My Lord Highe Steward I desire to be resolved in this point that whereas everie private man at his triall of life and death by a Jurie of xii men may have his challenge to suche of the Enquest as he thinketh unequall or not indifferent in his cause. Soe whether I and my fellowe the Erle of Sowthampton Submittinge ourselves here to the consciences of these honorable men maye not likewise have our challenge onto soche of them as wee knowe to bee our professed enemies. Aunswere was made, that it was never seene that there should bee anie challenge admitted of suche

the exciting nature of the politics of the time that out of the peers who tried this case three had been in serious trouble themselves: one had a curious family history, two were to come very nearly to Essex's end, and the Captain of the Guard to the same end. The Earl of Shrewsbury had been imprisoned by the Star Chamber in 1595 for harsh dealings with his tenants; the Earl of Hertford had been deprived of his title of Duke of Somerset by a special Act of Parliament (5 Edw. vi.) after the downfall of his father the Protector, but was restored to the peerage by Elizabeth; by her too he was imprisoned on account of his marriage with Lady Catherine Grey; Lord De La Ware was the son of the first or tenth baron who was disabled by Act of Parliament from succeeding to his uncle, the celebrated politician of Henry viii.'s reign, on the ground that he had tried to poison him; Lord Lumley's father was executed for his share in Aske's rebellion (1536), and he was imprisoned for some years in 1569 and 1571, on the latter occasion on the ground of complicity with Ridolfi. As to Raleigh's end, and the condemnation of Grey and Cobham, see the report of Raleigh's trial in vol. i. Grey died in 1614 after eleven years' imprisonment in the Tower; Cobham died in 1618, having been released from prison the year before.

honorable men in this triall. The Erle aunswered he was contented and Mr. Attourney vouched a case of ye Lord Dacres in the same point against the Erle. The Sergant proceeded in the demaunding the Lords. And after the call ended, The Erles weare commanded to hold up their handes. The Erle of Essex with a bould countenance first castinge up his hand sayd I have held up my hand to better purpose, and thought to have donn so againe; after the Erle of Sowthampton held up his hand.

Then there weare readd ij severall Inditementes of these Erles, the one found before my Lord Mayor and Sir John ffortescue, Commissioners with others in London. The other before the Lord Cheef Justice, Secretarie Harbart and other Justices, Commissioners at Westminster to this effect followinge, viz., Thou Robert Erle of Essex and thou Henry Erle of Sowthampton stand indited of Highe Treason in that you contrary to your allegiance and fidellitie onto our Sovereigne Lady Queene Elizabeth, etc. not havinge the feare of God before your eyes and thereonto moved by the instigation of the devill, didd uppon the eight daye of ffebruarie, in the 43 yeare of the Raigne of our said soveraigne Lady the Queene wickedlie imadgine, devise and compasse to take her Maiesties person and deprive her of her throne and dignitie, and to take awaye the life of her sacredd Maiestie and in her Kyngdom Rebellion and sedition to raise, and thou the said Erle of Essex to exalt thyself and usurpe the Crowne, to alter and chaunge the present state of government and Religion; And whereas her Maiestie of her abundant grace and clemencie the same 8 day sent to thee the said Erle of Essex, unto thy house the Lord Keeper of the great seale of

England,¹ the Lord Chief Justice, and Mr. Controuller

¹ Thomas Egerton, first Baron Ellesmere (1540-1617), an illegitimate member of an old Cheshire family, was educated at Brasenose, called to the bar, became Solicitor-General in 1581, and appeared as such in the trial of Tilney, who was tried for complicity in Babington's plot (1586), the proceedings against Mary Queen of Scots (1586), and the trials of Davison (1587) and Arundel (1589). He succeeded Popham as Attorney-General, and was knighted in 1592, having Coke for his colleague as Solicitor, and as Attorney appeared against Sir John Perrot (1592). He became Master of the Rolls in 1594, and succeeded Puckering as Lord Keeper in 1596; holding the two offices together till the end of the Queen's reign. After Lord Burghley's death he shared with Sir Robert Cecil the full confidence of the Queen on all matters relating to general politics. He was particularly concerned in this trial. He seems to have been an intimate friend of Essex from the first, and to have remained faithful to him to the last; his son served under Essex in the Azores expedition, and in Ireland, where he was killed. Essex was committed to his custody at York House; he presided at a preliminary meeting of the Star Chamber held to vindicate the proceedings of the Government as against Essex, and at the Commission before which Essex was actually tried for his proceedings in Ireland. Here, to quote Lord Campbell, 'when he had to sit judicially upon his case,' he 'tempered justice with compassion, preserving a proper medium between the duty of the magistrate and the generosity of the friend.' His share in the events connected with Essex's insurrection is described in the text; it is to be observed that as he was not a peer he was not a member of the Court. After the Queen's death Egerton joined in proclaiming James, who appointed him Lord Chancellor, and raised him to the peerage as Baron Ellesmere. He was not reappointed Master of the Rolls, in which post he was succeeded by Lord Kinloss, a Scotch favourite. When Lord Chancellor he caused Calvin's case to be brought in order to settle the position of the Post-Nati, that is, persons born in Scotland after James's accession to the

of Her Maiesties houshold.¹ Three of her said Maiesties Counsell of Estate, together with the Erle of Worster and others to admonishe and to require you in her Maiesties name, and uppon your alleageaunce

throne of England, and took a leading part in deciding it. He did what he could to establish the authority of the Court of High Commission, and was prominent in the proceedings which led to the dismissal of Coke and the strengthening of the royal prerogative. He was discreditably connected with the Overbury case, first, by promoting the divorce of the Countess of Essex, and next, by participating in the acquittal of the Earl and Countess of Somerset after they had been convicted before him as Lord High Steward. His health was failing at the time of his final dispute with Coke, and he died at York House in 1617, shortly after having been created Viscount Brackley. Apart from politics his reputation as a judge stands very high. He was sufficiently interested in literature to have been a friend to Spenser, and the first representation of *Othello* before Elizabeth took place at his house at Harefield. While *Comus* was written in honour of his son's family, it seems likely the infant Milton may have met Lord Chancellor Ellesmere. From him were descended the Dukes of Bridgwater, and through the female line some thirty-five peers, a list of whom may be found in the *Lives of the Chancellors*, concluding with the name of Campbell.

¹ William Knollys, first Earl of Banbury (1547-1632), the son of Sir Francis Knollys, the Queen's early friend and constant counsellor, after serving several times in a military capacity, was made Comptroller of the Household and a Privy Councillor on his father's death in 1596. He was raised to the peerage as Baron Knollys on James's Accession, and became Viscount Wallingford in 1616. His wife being a Howard, his name was mentioned in connection with the Overbury poisoning case, but without damage to his reputation. He became Earl of Banbury in 1626; and the paternity of his wife's children was the foundation of the numerous suits culminating in the Banbury case of 1813.

to disperse your disordredd companies and to repayre to her graces Court there to open your severall grevaunces, you dispisinge her maiesties clemencie, there at the said house imprisoned thè said Counsellors etc. onder the Custodie of St. John Davis, Knight, Thomas Tresham,¹ Owen Salisbury and others with commaundement that they should kill the said prisoners yf they offered to escape out of their handes, or yf thou the said Erle of Essex chaunced to myscarrie in this action of Rebellion. And heere-uppon you the said Erle of Essex and Sowthampton accompanied with divers Earles, Barons, Knights, Esquiers and gentlemen, to the number of syxe score armed with sundrie Targattes, daggs, halbertes and divers other unlawfull weapons, the same morninge issued into her Maiesties cittie of London with purpose there to raise tumultes and gather numbers of people for the effectinge of your trayterous attempt and thereafter sundrie proclamacions made to the contrarie you the said Erles contynued in Armes, Killinge divers of Her Maiesties subjectes and retorninge to the house of the said Robert Erle of Essex, you there refused to yeeld to her Maiesties Liuetenaunt contynuinge in hostile manner to resist the force of her Maiestie sent to repressse and apprehend you, etc.

¹ Francis Tresham (1567-1605), born of a wealthy Catholic family in Warwickshire, consorted with the extreme Roman Catholic party from his youth; his connection with Essex's plot, however, seems to have been very much disapproved of by the Jesuits. He was released from imprisonment on the payment of a substantial fine by his father, and lived to take an active part in, and probably to betray, the Gunpowder Plot. He died in prison before he could be tried.

The Summe of the second Inditement was that they intended by force to remove from about her Maiestie some of the Nobillitie and Counsell, to surprise the Court and Tower of London, to possesse themselves of the Cittie of London and to carrie the cittizens in armes for their partie against their soveraignes forces.

In the tyme of the readinge of these Inditementes the Erle of Essex behaved himself with a light and careles countenance, actinge passions of admiracion also as liftinge up his handes and shakinge his hedd blessinge himselfe as it weare at the straungnes of these accusacions, though silent duringe the whole time not uttering one word of interruption onlie some private speeches he made to the Earle of Sowthampton who carried a settled and sober countenaunce.

Heere the Earles weare willed to hold upp their handes againe, and beinge severallie demaunded to the Inditementes what they could saye for themselves aunswered, Not guiltie, and by whom they would be tried Sayd by God and their Peers. The Erle of Essex added for his parte he didd nothings but what the Lawe of Nature and reason forced hym onto. Heere my Lord Steward seemed rather to excuse his sparing of speeche then purpose to speake muche, for though he should have used manie wordes to them he sayd yet all should have been to declare the occasion of their meetinge and to admonishe them of the waightines of the cause, they hadd in hand. But their Lordships needed not informacion, and so he committed the consyderacion thereof to their honorable wisdoms.

Then spake the Queenes Sergant uppon the inditement, repeateinge with verie little difference the Summe

thereof, onlie att the latter ende he aggravated the matter by showinge the lawe in that poynt, for sayd he my good Lord I beseech your grace, and you my Lordes that be peers to understand that yf anie man doe but intend the death of ye Kinge or to cause any sedicion, it is Treason and death by the Lawe, for the Kynge is the Head of the Common Wealth, and his Subiectes as Members ought to obaye and stand with hym, but as for this Rebellion it contaynes manie braunches of High Treason, which wilbe directlie proved and being found to be soe you my Lordes which are Peers are to finde him guiltie; Heere he shewed the Lord of Essex what great cause he hadd to carrie himself gratefullie and dutifullie to her Maiestie, havinge receaved so many high advauncementes and bountifull guiftes from her, But contrary wise tourninge all her favours to a rebellious hand, the Erle had conspired in as great a conspiracie as Cattalyne, gatheringe all kinde of people onto him like Cattalyne, especiallie discontented persons as Atheystes, papistes etc., to possesse London, as Cattalyne didd Rome; the difference was Cattalyne had manie followed him in Rome, and London afforded none to follow the Erle, thoughe he sought to creepe into the Commons favours and to make himself the peoples minion. Ambition he shewed so possessed him that he could never be satisfied, the more favours and honours he hadd, the more still he coveted, and this humor ever increased in him, as they saye of the Crocodill that he groweth still till his death. Then for my Lordes proceedinge in the Cittie he said, You my Lordes Admirall and Comber (Cumberland) with others of these honorable peeres knowe howe it was which makes me wonder that they stand uppon their

trialls without confession. The treasons beinge so apparent, for my parte I coniecture that there is some further matter in it, but my hope is that God whoe is mercifull and hath revealed these treasons will not suffer the rest or anie other to the hurt of the state, or touche of her Maiesties Royall person, whom I beseech God longe to preserve from the handes of her enemies. Amen cried the Erles prisoners, and found their soules that ever wished otherwise to her sacredd person.

Then Mr. Attourney suddenlie risinge upp spake to this purpose; Whereas my Lord of Essex hath affirmed that he did nothinge but that he was constrayned onto by the lawes of Nature and Reason, I will proove it plainlie that it is against the Lawes of Nature, positive and divine, that which he intended to have donn (viz.) to take away the prynce from the people and the Lordes annoynted from that vice Regencie upon earth, which is bequeathed to suche a sacredd Maiestie. Maye it please your grace, the Lord Judges whoe be the fathers of the Lawe doe knowe that the intent of treason to the prince by the Lawe is death, and it is my position that without controversie Rebellion is more then highe treason, for he that is guiltie of Rebellion is guiltie of an intent by the Lawes of this land to seeke the destruction of the prince, and that in twoe thinges; first in that he will not suffer the prince to raigne over the people as by right he ought. Secondly in that he himself usurpeth sovereigntie which he hath no right to. This foundation laied, I am to proove rebellion to bee in this acte against which their (*sic*) is no coullour, he that doth usurpe upon the princes auctoritie the lawe intendes that he purposeth the destruccion of the prince. He that doth

assemble power against ye princes comaundement and contynewes in armes, no doubt is guiltie of Highe treason in usurpinge the princes auctoritie ; he that doth levie forces to take anie towne, fort or houlte against the prince committeth treason.

But my Lord of Essex intended to take by powerfull hand not onlie a towne, but a cittie, not a cittie alone but London, the cheef cittie, and not onlie London but the Tower of London the strenght of the Realme ; and not onlie the Tower of London, bnt the Royall pallace and person of the prynce, and take awaye her life, this is against the lawe of nature, and it is to be counted amongst the cryinge sinnes. *Res ipsa loquitur.*

Heere beinge longe silent with wonderinge and passionate gestures the Erle of Essex spake. God lett me never live or breath, yf ever I thought worse to my soveraigne then to myne owne soule, but then the Lord Highe Steward wishinge the Erle not to be too confident till he heard all, he replied thus. That it was not affectacion or vainglorie, nor trust to the strenght of his reason nor anie oppinion that philozophie hadd bredd in him, but the innocencie of his conscience that made him bee confydent.

Mr. Attorney contynewed this treason was *Armata iniquitas* and premeditated, for there was a little blacke bagge wherein was containd the whole plott which the Erle wore about his necke. And for a full vewe of the heynousnes of this rebellious acte I pray your Lordships consyder the qualitie of the offence, the persons the manner and circumstances ; the qualitie you see to be highe treason of as highe nature as anie. The person offendinge was the Erle of Essex whoe was exalted, beinge yet a younge man, to be Master

of her Maiesties horse, Master of the Ordynaunce, one of her Maiesties most honorable privie Counsell, Marsshall of England, Vice Roye of Ireland, with all honour, love and respectes shee countenanced him that could be looked for by a subject, from his soveraigne. And besides he hadd of her Maiesties free guifte 300,000*l*. (30,000*l*.—Howell), and yet all these weare as clearlie forgotten as iff they hadd never bean. And nowe for the person offended. It was his Sovereigne Queene, a prince that is the defender of Godes true Religion, a prince administring Justice with admirable mercy, a prynce full of magnanimitie and all heroicall vertues; and though I cannot speake it without reverent comendacions of her Maiesties honorable disponcion, yet I thincke her overmuch clemencie to some tourneth to overmuch crueltie to herself. Nowe for the manner and successe of this treason, he would showe howe wonderfullie it was discovered, and they in all their plottes revealed, not one man beinge racked or offered torture. Her Maiestie understandinge of so greate a confluence as was late used togather to his house, sent a Counsellour to call him before some of Her Maiesties Counsell that he might be admonisht to carrie himself more soberlie and warilie in his state. But the Earl came not as beinge guiltie of his owne practizes, straight-waye strengtheninge himself, for he hadd plotted to surprise the Court, and hadd disposed of the severall places thereof to be guarded by speciall persons about him. The gate he commytted to Sir Christofer Blunt,¹ the hall to Sir John Davis, the presence to

¹ Sir Christopher Blount (1565-1601) served under Essex in his Cadiz and Azores expeditions. He went with him to

Sir Charles Danvers,¹ and himself would possesse himselfe of Her Maiesties sacredd person, and then he thought the kingdom was in his owne handes. This was not all for then the Erle would call a parliament and there decide matters that weare for his purpose. But now by Godes Judgment he that thought to have been Kinge of England Robert the first is like to be now Erle of Essex Robert the last. Yet her Maiesties continewinge to expect what the Erle would doe resolved to send once more unto him. Commaunding the Lord Keeper, the Lord Cheef Justice, Mr. Controuller, the Erle of Worster with

Ireland, where he was one of Essex's chief advisers, but was converted to Roman Catholicism. The intimate political relations existing between them are shown by this trial and Blount's confession in his own trial (see *State Trials*, vol. ii. p. 414), where he says that Essex first suggested treasonable designs to him three years before. Blount married the widow of Essex's father, who had already married the Earl of Leicester as a second husband. He was tried and executed for his part in Essex's undertaking in the month after this trial. His widow survived him thirty-four years.

¹ Sir Charles Danvers (1568-1601), born of a good Wiltshire family, first attained notoriety from a duel in which his brother killed one of the Longs, owing to a dispute between the two families. Sir Charles Danvers and his brother Henry were both outlawed in consequence, though they were protected, as far as might be, by the Earl of Southampton, of this trial. After a few years' residence in France they were pardoned, and Sir Charles accompanied Essex to Ireland, but was wounded in an early engagement. He seems to have been drawn into Essex's plot by Southampton and Blount. He was tried for treason, pleaded guilty, and executed for his share in it. His brother Henry became Early of Danby; his brother John married the mother of George Herbert and Lord Herbert of Cherbury, and lived to become a regicide.

others to see yf they could gett him to sever his riottous companie and come to the Court. But he layd hold on them and imprisoned them, puttinge them in daunger and in feare of their lives. Then issued he out passinge through the streetes of London to Sheriff Smythes house, publishinge as he went that his life was sought and the Kingdome sold to the Kynge of Spayne. And in this sort he passed through the cheefest streetes in London. But for all his popularitie and these pretences, he hadd not one cittizen to assist or followe hym, armed when faylinge of his purpose he returned home to his house and myssinge his prisoners being in a desperate estate he burnt the Schedule, wherein was contayned his whole confederacie and allso divers papers, that his purpose might not be discovered. But God revealed them. And all this he sayd he would proove, as cleere as the sonne by the evidence which he offered to shewe, beinge for ye most parte Examynacions of suche as weare of the confederacie all severed in pryson, but agreeinge in the cheef pointes of their confessions.

Then the Lord of Essex spake: Will your Lordships give us our turne to speake, for he playeth the Orator, and abuseth your Lordships eares, and us with slaunders, and they are but fashions of corrupted states, or the corrupt Instruments of corrupted States, banished out of other Kyngdoms, and I desire your Lordships that wee maye aunswere to the accusacions in generall, and then to the particular evidences, they beinge so manie as will troble their weake memories uppon so short warninge. Yf this might not be suffred then desyred he the Companie to suspend their Judgmentes till they hadd their aunswares. His request was denied by the Lord Highe Steward,

the Attorney desiringe all for the Queene might first be delivered. But uppon advice of the Lord Cheef Justice it was graunted. And the Erle spake to this effecte, that whatsoever he said that daye he desired their Lordships and all the hearers present to accept gratuslie with equall censures of their consciences. And yf that anie thinge by the earnestnes of his speeche or default or weaknes of his memorie in that case amonge the multitude of his occasions of aunswere to all manner of oppositions and ye varietie of his examynacions should slipp fourth to his dissadvantage which should be contrarie to the truth of his sinceere hart that it might not be taken hold of with rigorous severitie; but charitablie understood with just and true construction. And yf anie thinge upon the same reason of defect on his parte should be overslipt and left out necessarie for his justificacion he might not be prevented with injurious tauntinge or catchinge, or too speedie excepcion of what was past but with good leave and honorable courtesie he might add and supplie so muche as was truth and right, then would he require all men that hadd auctoritie or interest to speake against him that daye, to speake freely and home to the uttermost. He said againe that he protested before the Almightye God, before Whom he should shortlie appeare, that he would not speake one word in hope or desire of life, for he much rather wished to die, and that speedilie even yf it weare on ye morrowe, and thereby he should gaine the greatest good that might bee, for he should be ridd of a contynuall miserie, and his enemies of their daylie feare. But he said that all he would saye should be uttered for their sakes, whose honorable and gentle lives and estates he did

tender above his owne, and for the savinge of his creddit and reputacion, concerninge his conscience towardes God and fidelitie and true alleadgaunce towardes her Maiestie whom humblie he prayed God to blesse with happines and confound them that wished otherwise to her person or dignitie. And for the wiping awaye of those foule spottes and staynes usually cast upon persons accused by their accusers, that he might cleere that name of his which he never desired should be other then honorable and unnatainted of all disloyalltie, for which yf he could but soe muche effect of belief in the soules and consciences of those honorable men and other people hearers, as his heart did knowe, and God above should Judge and wittnes at another Barre, then would he goe as cheerfullie to his expected death as to the thinge he desired above all thinges in this world.

Heere begann the Evidences to be readd, and first the examinacion of Withrington of the North, whoe as he said came to Essex House on Sunday morninge the 8 of ffebruarie and findinge that assemblie sought to sever the Erle of Bedford from them but could not, and therefore went into the Cittie with them, of purpose to withdrawe the saide E. of Bedford which he effected before ye proclamacion. In the meanetyme he had heard divers lewd and mutinous speeches by some of the E. of Essex his companie; Some of which speeches weare rehersed as that he should heare some crie out, Kill them, Kill them, meaninge the Counsellors, and that Order was left by the Erle that they should be killed yf he should miscarrie in London.

To this ye Erle of Essex aunswered that Mr. Withrington was not present himself, but his ex-

amination beinge taken he was sent he knew not howe into the Countrie. Howsoever Mr. Withrington did muche disparage himself yf he said soe, ffor I protest to God, upon my Salvation I never heard suche wordes as Kill them, Kill them, and Mr. Withrington came to my house voluntarie, unsent for, and for anie thinge I perceaved as forward he was in the action as anie with the Erle of Bedford. And the first time I mist them was at our stand in Gracious streete. And further I desire Your Lordships to consider what a man in daunger and feare as Mr. Withrington is may speake and for those speeches I hate and detest them, but these wordes beinge so openlie spoken a hundredd more might testifie it.

Then the Lord Cheef Justice rose upp and beinge sworne begann to speake, the whole Court wishinge his Lordship to speake the whole truth at large. He reported howe the Lord Keeper deliveringe the Message from the Queene to disperse that Riottous companie and submitt himself to her Maiesties Commandement, the Earl refused so to doe and carried them into a room apart, as though he would have spoken with them in private, but there he left them and the dore was shutt upon them. He told further that lookinge thorough the dore he sawe some stand with muskattes reddie bent and mattches on light at the dore. He told of manie insolent speeches as some would saye, Kill them, Kill them, we shall have the lesse to doe, they will betray us by delayinge us. He could not tell whoe it was but one he marked, a younge man in a white satten doublett to use suche wordes. Afterwardes my Lord being longe from them the Lord Cheef Justice asked a gentleman what was become of the Earl of Essex. Aunswere

was made he was gonn into the Cittie, the Lord Cheef Justice replied he hoped he should have little succour there, for he doubted not her Maiestie had faithfull subiectes there; thus they contynewed in feare and daunger till St. Fardinando Gorge freed them.¹

¹ In Howell's account it appears as if a written declaration by the Lord Keeper, the Earl of Worcester, and the Lord Chief-Justice were put in, and sworn to by the last mentioned. After describing how they found Essex's house shut, and how they were ultimately let in, but without their servants, the declaration goes on:—

‘At their coming thither, they found the court full of men assembled together in a very tumultuous sort; the earls of Essex, Rutland and Southampton, and the lord Sandys; master Parker, commonly called lord Mounteagle, sir Christ. Blunt, sir Charles Davers, and many other knights and gentlemen, and other persons unknown, which flocked together about the Lord Keeper, etc. And thereupon the Lord Keeper told the earl of Essex, that they were sent from her majesty, to understand the cause of this their assembly, and to let them know, that if they had any particular cause of grief against any persons whatsoever, it should be heard, and they should have justice. Hereupon the earl of Essex with a very loud voice declared, That his life was sought, and that he should have been murdered in his bed; that he had been perfidiously dealt with; that his hand had been counterfeited, and letters written in his name; and that therefore they were assembled there together to defend their lives; with much other speech to like effect. Hereupon the L. C. Justice said unto the earl, That if they had any such matter of grief, or if any such matter were attempted or purposed against him, he willed the earl to declare it; assuring him that it should be truly related to her majesty, and that it should be indifferently heard, and justice should be done, whomsoever it concerned.—To this the earl of Southampton objected the assault made upon him by the lord Gray. Whereunto the L. C. Justice said, that in his case justice had been done, and the party imprisoned for it. And hereupon the Lord Keeper did eftsoons wille the earl of Essex, that whatsoever private matter or offence he had against any person whatsoever, if he would deliver it unto them, they would faithfully and honestly deliver it to the queen's majesty, and doubted not to procure him honourable and equal justice, whomsoever it concerned: requiring him, that if he would not declare it openly, that he would impart it unto them

To this the Erle of Essex aunswered desiringe that ye circumstaunces might be waied, what tyme it was, and in what companie: when nowe they had dyvers advertissmentes both ye night before, and that present morninge of preparacions by their enemies for assault to be made upon him in his owne house, and therefore what he didd was but to secure them lest in the middest of those tumultes which weare like to ensue betweene him and his enemies these Lords should have perished. Otherwise said he what reason hadd

privately, and doubted not but they would satisfy him in it.—Upon this there was a great clamour raised among the multitude, crying, "Away, my Lord, they abuse you, they betray you, they undo you, you lose time." Whereupon the Lord Keeper put on his hat, and said with a loud voice, "My Lord, let us speak with you privately and understand your griefs"; . . . and so the earl of Essex went into the house, and the Lord Keeper, etc., followed him, thinking that his purpose had been to speak with them privately, as they had required. . . . The Lord Keeper did often call on the earl of Essex to speak with them privately, thinking still that his meaning had been so, until the earl brought them into his back chamber, and there gave order to have the farther door of that chamber shut fast. And at his going forth out of that chamber, the Lord Keeper pressing again to have spoken with the earl of Essex, the earl said, "My lords, be patient a while, and stay here, and I will go into London, and take order with the mayor and sheriffs for the city, and will be here again within this half-hour."

The Lord Mounteagle here referred to was William Parker, fourth Baron Monteagle and eleventh Baron Morley (1575-1622). He was brought up as an enthusiastic Roman Catholic, and went to Ireland with, and was knighted by, Essex. For his share in Essex's rebellion he was fined £3000 after about a year's imprisonment. In James's reign, while remaining a zealous Catholic, he abjured violence, and, as he was Tresham's cousin, it was natural that the latter should choose him as the channel by which to reveal the Gunpowder Plot. At first he enjoyed the title of Monteagle by courtesy, through his mother. It was confirmed in 1605.

I in the world to purpose mischeef against them, whereof the one was my Unckle the other my best honorable frynd suche as I protest before God I hold so deare that yf anie thinge had bean interprised by mee against anie of the Nobillitie they should have bean the last.

Heere Mr. Attorney excepted against those wordes of the Erle; but the peeres misliked his exception and thought they weare well spoken.

The Erle contynued that what was said or donne in that Kynde was against his will and though he could not restrayne some rashe heddes from utteringe fond unreverent speeches yet he withheld them from doinge anie violence. Then protested he that whensoever they uttered unto hym any suche devises as their hedds hadd fayned, and would wishe him to followe, he so couldlie entertayned them that often times he checked them for their rashnes. And for that the Lorde Keeper spake to them uppon their alleadgaunce to disperce their assemblie. He aunswered and protested he never heard of yt till it was too farre past, that they shewed no warrant from the Queene, and besides at the time of their issuinge forth, yf they could have knowen howe they might possiblie have found all the Counsell together they would directlie have gonn to them. But they feared they should have bean intercepted by their enemies to their uttermost daunger.

Heere Mr. Attorney spake, My Lord your grace sees that this is without Collour or question, for my Lord Cheef Justice and Mr. Withrington have proved it plaine that they would not dissolve their companie that was up in armes, beinge commaunded upon their alleadgaunce by the Lord Keeper.

The Erle of Essex said that it was no marvell consideringe that the people abroad in the streetes with a great and sudden outcrie said wee should all be slaine ; and consideringe our other Intelligences.

The Erle of Sowthampton aunswered for as muche as concerned him of that evidence of Mr. Withrington he neither heard the Lords deliver suche message to the Erle nether heard anie of these speeches mentioned by the Lord Cheef Justice and him.

Then was brought in S^r fferd. Gorge¹ his confession against them, whoe deposed that in Januarie last he receaved a letter from the Erle of Essex complayninge of his unfortunatenes and desiringe the said S^r ffer. to com to London to him where, when he was com, the Erle uttered his grevaunces and the Injurie donne him by his enemies which he could not endure, and he said he hadd manie Erles, Barons, and gentlemen that would joine with him against his enemies. Further his confession revealed the consultacion at Drewry House,² where was moved the takinge of the Cittie, the Tower, and the Courte. There it was debated howe all or some of them might be surprised where it was affirmed that Sir John Davis undertooke to frame a plott to take the Court designinge Sir

¹ Sir Ferdinando Gorges (1566-1647), a member of an old Somersetshire family, saw a variety of military service abroad in his youth. He was made 'governor of the forts and islands of Plymouth,' but took part in Essex's Island Voyage, and apparently in his Irish expedition. In later years he took a leading part in the establishment of the New England colonies, and lived to help in preparing the defences of Bristol for Charles I.

² According to Spedding, Drury House was the property of the Earl of Southampton, and was leased to Sir C. Davers.

Christofer Blunt to make good the Gate, Sir John Davis the Hall, Sir Charles Davers to possesse the Great Chamber, and to take hold of the guardes Harbartes and to keepe ye Companie of the presence from issuinge forth. The Lords themselves to passe immediatelie to her Maiestie. But uppon these motions nothinge was resolved, but referred to the Erle of Essex his owne orderinge, by reason Mr. John Littleton and himself misliked ye plott hymself he said as well for the horroure that afflicted his mynd as also for the impossibillitie to effect it.¹

After reading of this examination the Erle of Essex said that Sir ffard. himself might speake to this pointe, and the Court agreed to send for him. In ye meane-tyme the Erle of Essex aunswered the onlie intent of yt. attempt for the Court (which was yet unresolved on) was to have wrought that meanes, whereby he might have obtayned that which he could never wyne by anie favor before that tyme, which was but to have accesse to her Maiesties person, there to utter his plaintes which he knewe weare so iuste yt. her Maiestie upon those allegacions which he should urge against

¹ In Howell, *Sir Ferdinando Gorges his Confession* contains the following passage:—

‘He confessed also that they had two several meetings at Drury-house, to consult of these matters; and the projects were, Whether it were better first to surprize the Court, or to take the Tower of London, or to stir in the city. But most agreed, first to surprize the Court. And there and then sir John Davis took pen, ink, and paper, and set down, That some should keep the hall, some the court-gates, some the guard-chamber, and some the presence-chamber; saying, many of the guard had been the earl of Essex’s servants, and were preferred to the queen by him, and will be more indifferent to deal with than others; and so my lord shall have a way through his own guards to come to the privy-chamber, and the presence of the queen. And sir Ferd. Gorges said to the earl of

his adversaries (the Lord Cobham,¹ Mr. Secretarie and Sir Walter Rawley) would gratuslie heare him, and immediatelie shée would proceed in disfavour of them nevermore to be receaved to her Maiesties countenance;² and he said besides private iniuries he could have detected manie forreine practizes and broyles in Neighbour states, the rootes whereof weare laid to these his enemies. And nowe howe convenient it weare that suche men as wholie dwelt in her Maiesties eares and abused them should be removed, he referred to their honorable consideracions and for his parte he professed he could have benn content to have sett his hand and his braynes to the severinge of suche men from suche neernes to her Maiestie. Yf I spake a wonder said he, when I mentioned these, myne enemies, should be remooved I should need to strengthen my affection with good reasons; but yf manie of your Lordships heere present have heertofore conceaved enoughe of it I need not further at

Essex, Alas, my lord, what is so small a number of men able to do in so worthy an action? and so dissuaded the earl from surprizing the Court, and rather bade him submit himself to the queen's mercy, than proceed any further. And that the earl of Southampton said at Essex-house, Is it not three months since this plot began, and shall we resolve on nothing? Then upon a sudden they all agreed, first, to stir in London, where they assured themselves of great favour. . . .'

¹ See vol. i. pp. 1-7.

² 'And the effect of our desires should have been, that she would have been pleased to have severed some from her majesty, who, by reason of their potency with her, abused her majesty's ears with false informations; and they were Cobham, Cecil, and Raleigh; for we thought my Lord Cobham carried himself in such factious and dangerous courses, as he told her majesty many untruths; which was a principal cause (as I think) of withdrawing her favour from us.'—Howell.

this tyme to give reason for it. And when I and my companie had procured accesse to her Maiestie wee meant to have submitted ourselves to the Queene with paper and not to have justified our acte with sword.

Nowe that his lief was sought he said he had manie advertissmentes and named one Blunt that was sub-bourned by his enemies to accuse him of a conspiracie with the Scott touchinge the Succession, whereby he surmised that by false suggestions they intended to bringe him within Compas of treason, to take awaie his life. To this was answered that he gave no proof of it; farther the Erle said it was made cleere by their practizes that they sought his life, for he had the confession of Peter Bales¹ under his hand and ij witnesses handes dwellinge at the Golden Penn in the Old Baylie, that he practized to counterfeit his hand in manie letters beinge subbourned thereunto. To this was aunswered that it was his owne man that procured it. The Erle aunswered he was the fitter instrument for whoe so reddie as a man's owne servant to betray him especiallie such a knave as he was that had robd his wives cabinet, and taken out divers jewells, and threatened his lady that yf shee revealed this his villaine he had letters under his

¹ Peter Bales (1547-1610) was a writing-master and a calligraphist of great skill. He was employed in transcribing public documents in book form, and in deciphering and copying secret correspondence. His services were employed in this way in the discovery of Babington's plot. In 1598 Essex was solicited to find him an official post; and on his being employed by Daniel to copy certain of Essex's letters to the Countess, he revealed to her what was going on. When Daniel was tried in 1602 for forging these letters, Bales gave evidence against him.

Lordes handes of his Lordship that would bringe him into great daunger.

Nowe upon those wordes before alleadged of the Erles enemies the Lord Cobham stood upp and said for those Imputacions on his soule and conscience he was innocent, neither used he annie such meanes of accusinge the Erle to the Queene as the Erle of Essex pretended against him, and so desired to knowe why the Erle so charged him. The Erle aunswered that he had forgiven all the world, and therefore the Lord Cobham needed not to justifie himself; in deed said hee, I have heard and thought that you used suche meanes with the Queene but I envie you not my Lord.

Here came in Sir fferd: Gorge to justifie what he had delivered in his examynacion.

Then the Erle of Essex turned himself towards him, and spake to this purpose: Sir fferd: I advise you speake nothinge that shall hurt yourself, for I protest I will not, but for me speake home to the uttermost.

Sir fferd: justified what he had confessed, but farther he could not saye.

Yes, said Essex, yf ever you knewe anie other matter which containd treason or anie disloyall thought, speake it, for they are thinges not to be forgotten.

Good Sir fferd: said the Erle of Sowthampton satisfie the Court what was intended amongst all our conferences and consultacions, whether there weare any treason intended.

Sir fferd. then added to that he confessed that he was indeed muche distracted betweene his alleagaunce to her Maiestie and his bond and love to his Lordship, and so was inforced to breake one of those braunches,

yet by reason of those manie good tournes whereby he was bound to be thankful to him, he was for the tyme induced to yield to his part and followe him, till he plainlie sawe the daunger of the Erle of Essex : and he said further the Erle of Southampton at the consultacion, when he sawe nothinge was concluded, brake out as one discontented, what ! shall we resolve upon nothinge havinge had this thinge in consultacion these iii monethes. But of anie matter of treason directlie against her Maiesties person intended by them he protested by the oath he tooke he knewe of none ; where the Erle of Sowthampton interrupting him said, O God I protest, I meant nothinge in the world in my hart but the assistinge of my Lord as my deere friend towards the obtayninge of that wee thought should bee so convenient for him to cleere himself before her Maiestie.

Then said the Erle of Essex, Sir fferd. speakes as a man desirous to live ; he hath don her Maiestie good service and may doe so againe. I pray God give him joy of his lief so I shalbee gladd ; yea yf I may conceave hope that he shall prosper here and speed well in his conscience hereafter. I shall be gladd yet I would that all these standers by which behold us doe but observe this mans life to com and my death.

Heere my Lord of Essex beinge forced with that speech of his touchinge his feare of the seekinge of his life by these his enemyes was constrayned to make a proof of somme parte thereof, for said the Lord Highe Steward you speake these thinges without probabilitie.

Nay, said Mr. Attorney, the Lord Essex tells us he feared Rawley and tooke upp all these armes against him when he might have killed him everie daye

walkinge by his doore, wherewith the Erle of Essex suddenly speaking asked whoe? I feare Rawley? No I feare not this, layinge his hand therewith on the axe. But I understandinge manie waies howe they prepared against mee and what they could procure in their places, I could not be ignorant, besides I had intelligence upon intelligence, as my Lord Sowthampton can tell, of their preparacions that daye. And beinge urged by the Lord Steward and the rest hee in the end named Sir fferd. for one, whoe that sondaye morninge (said hee) was sent for by Sir Wa. Rawley, wee surmysinge it was for no good would not lett him goe, but sent a page to Sir Wa. Rawley that he would meete him on the water, and so they mett, Sir fferd: standinge oppon his guard, where Sir Wa. Rawley wisht him to com from us, or els he weare a lost man, and but as a person entringe into a sinckinge shippe; of which wordes when wee heard them, what other construccion could wee make but there was some imminent mischief towards us; then was there some mencion of those that went to guard Sir fferd: He affirminge that Sir Christofer Blunt would have persuaded him to kill Sir Wa. Rawley but that he refused, as beinge bound in particular bondes of regard and kindenes to him, but was contented to take some musketeers as guard to himself yf any dannger weare.

And heere Sir Wa. Rawley desired on his knees to satisfie for that point, and havinge leave was reddie to sweare, when vehementlie the Lord of Essex cried out Looke what booke it is he sweares on; and the booke beinge in decimo sexto, or the least volume was looked in, and changed to a booke in folio of the largest size.

And then Sir Wa. Rawley with a settled countenance related that opon private occasions sendinge to Sir

ffard: to speake with him Sir ffard: appointed to meet me uppon the water where I came onlie with one boye not mistrusting any this matter, and I protest before God and his holie aungells, after I had delivered my mynde unto him about repayringe into the Countrie where he had a charge and whether her Maiestie would have him goe, Sir ffard: thanked me, but aunswered these weare no tymes of goinge, for the Erle of Essex stood uppon his guard. Whereat I wondered, as never havinge word of it before, as I shalbe saved, told Sir ffard: yf you retorne then are you a lost man: and this was all the speeche and intelligence I hadd of this matter or els lett me be reputed a traytor to her Maiestie.

And heere my Lord of Essex spake, it was told us otherwise.

Sir Wa. Rawley added for his parte he lay longe in bedd that daye, neither had he appointed one man of the garde more then ordinarie to waite; my Lorde Admirall likewise confirmed it, that of his knowledge their was no preparacion till past eleven of the Cloke on Sundaye when they heard the Erle of Essex had possessed the Cittie and to this he said the Erle of Worster and Lord Burleigh could speake, as havinge charge that daye and they consented to my Lord Admiralls speech.

Heere Mr. Attorney urged the Erle of Essex his owne speeches in the Cittie and the slight regard of the Herald.

The Erles aunswere was, he often [heard] the Queene's name mencioned but sawe no other signe of auctoritie, savinge a heraldes coat on the backe of a fellowe that had been burned in the hand and was knowen to be a notable knave and therefore was the

lesse willinge to heare him, to which speech it was replied, Whatsoever he weare yf he weare the Queene's Officer he ought to have benn obayed. And the Attorney farther urginge what little assistance he hadd of the Citizens, and that he was carried by his Parasites onlie, used this phrase, there was never povertie cladd in suche pride. Whereat the Erle of Essex disdainfullie smilinge and shakinge his hedd said, Pride Mr. Attorney, look to yourself, addinge a protestacion to this effect, that his hart was cleere from that spott, and for desire of vayn glorie. He had longe since laied all those thoughtes aside, nether did he ever affect to be above his peers or his fellowe Counsellours, men of his birth and service, and that still with her Maties. favour.

And beinge pressed with the choice of his popishe and riotous crewe as havinge trusted cheeflie Sir Christofer Blunt, Sir John Davis, booth Recusantes, Catesby¹ and Tressam knowen papistes and the like,

¹ Robert Catesby (1573-1605), a member of an old family, a member of which had been Speaker, and was hung after the battle of Bosworth as an adherent of Richard III., was the son of Sir William Catesby, who had suffered considerable losses as a recusant. Robert seems to have been educated at Douay and Gloucester Hall (now Worcester College), Oxford, and devoted his life and fortune to the support of the most violent faction of the Catholics. He was imprisoned in consequence of the part he took in Essex's rebellion, but was liberated on payment of 4000 marks, of which sum £1200 was made over to Bacon. He appears to have been imprisoned as a precautionary measure a few days before the Queen's death, and afterwards became, with Faux, the most important conspirator in the Gunpowder Plot. Refusing to surrender, he was shot while making a desperate defence on 8th November 1605.

he protested that in his purpose in cominge to her Maiestie he intended no violence, neither to the person of her sacred Maiestie nor anie other, but onlie to have humblie prostrated himself at her ffeete with manie other Noblemen ; And cravinge pardon for his boldnes have shewed juste causes of their greefes which they doubt not but should have ben graciouslie heard and releevd, and that he was determynd when this matter hadd been fullie resolved uppon (which was interrupted by the fallinge out of the Erle of Sowthampton and Lord Gray—which he confessed moved him, as beinge a man subject to passions as other men, and this was his frindes cause) that he was then determynd to have all parties in this action to have receaved ye sacrament with him at his house, thereby to have tried whether they weare like affected as he was, for he was verilie perswaded that as both himself and all those that hadd innocent consciences should have receaved itt to their Salvacion, soe they which otherwise bore any disloyall or malicious mynde towardes her Maiestie or any other (which he for his parte did not so muche as dream of) should have taken their dampnacion.

Heere unto the Erle of Essex mentyoninge the Lord Grey his assault of the Erle of Southampton, my Lord Grey standinge upp offered to speake ; and though my Lord Highe Steward seemed to restreyne him, sayinge that private quarrells ought not to be brought into this place, yet he spoke to this effecte : My Lord Southampton I protest I never envied your fortunes, and nowe I pittie your estate. Whilest I contynued in the Neither Landes I was content accordinge to her Maiesties comaund, to lyve pease-

ablie with you, and so I returned into England offering nothinge till of late you gave me newe occasion. Then Southampton said not I my Lord. Lord Grey replied, upon my salvacion you didd. Uppon my salvacion said the Erle of Southampton I didd not; then I was misinformed said Lord Grey. Then so you weare said the Erle of Southampton. Thus they ended.

Heere likewise my Lord of Essex affirmed that that there were great cause of offence and discontentment to the whole people, to the nobillitie and he protested that an honorable grave and wise Counsellour hath lamented and greeved at the course he had seen taken, soe as he hath oftentimes wished himself dead; farther he shewed in particular the iniurie offered the Lord of Southampton, by the Lord Gray (passinge over manie disgraces of other of the nobillitie) which he said was left unpunisht. To this was aunswered that there was no suche cause in the government, as hee pretended; to which the nobillitie there present spake denyinge either oppression or disgrace, and applauded the present government particulerlie, the Lord Southampton acknowledged he had justice att her Maiesties handes against the Lord Gray, and my Lord Cheef Justice knewe, he said, howe he had heretofore acknowledged the same.

And nowe the Attourney pressed the Erle with his speech of sellinge ye State to ye Spanyard by Mr. Secretary which was expounded to bee the givinge title to the Crowne unto the Infanta. Mr. Attorney said it was treason in anie so to doe.

Whereto the Erle of Essex annswered for his parte he came not to accuse others neyther would it doe him good, but defend himself; though the Lord

Southampton knewe that manie wayes he had advertissmentes of this practize, and both of them had been enformed howe Secretary Cicill had mayntained to one of his fellowe Counsellors the title of the Infant to be best after her Maiesties death and in a manner before.

Whereat the Mr. Secretarie cominge fourth from behinde the hanginge where he hadd stood, fell on his knees and humblie besought the Lord Highe Stewarde that he might be suffred to breake course and cleere himself of this slaunder. Leave beinge graunted hee stood upp and begann; I have iust cause to rejoyce that this daye beinge to speake before this honourable assemblée my part is better then yours, Lord of Essex, for I speake under the person of a traytour. I will not compare with you for witt, and for the sword you have the advauntage of me, but I have my innocencie, my loialltie, my fayth, all which you have forfeyled, to defend me against the stinge of slanderous toungues and of aspiring hartes. Your proud and turbulent thoughtes have brought you to bee a spectackle this daye, and could you but have contented yourself within the bandes of charitie, as wee whom you have termed your enemies have allways donn to you ward you might have lived in saffetie a peaseable subiect. But it was that maxime of yours which you allwaies held for currant in your judgment, that for your good and the maintenance of their estates that followed you (beinge all marshall men) it was not tollerable there should be anie peace in England. This brought fourth your appollogie against the treatie of peace with Spaine. This begann to stirre your blood against us, which weare contrarie mynded, for ye contynauce of ye peace of the

Countrie. This wrought that too uncharitable censure, you made of us within yourself, whereas it was otherwise in our intent towards you; for I protest before God, I never hated your person, nor envied your greatnes, and after you had utterlie cast downe yourself, by your owne too much clyminge and other follies, so that her Maiestie was highly displeased with you I contynuallie pittied you, and was an earnest sutor for your restitution, often tellinge her Maiestie I have verilie thought this your crosse and affliction might make you fitter to doe her Maiestie better service. And I made not doubt, had you not thus hostile thrust yourself into this vyolent and disloiall action Her Maiestie would gratuslie have receaved you, yff not into the former hight, yet into a competent place in her favour. And for this acte of rebellion it hadd benn the lesse yf it had been but your owne case. But you have drawne into your nett dyvers noble persons and gentlemen of byrth whoe are all undonn by you. And I thancke God that you dydd not take me for a fitt companion for you.

To this the Erle of Essex said little, but with a straunge kinde of smilinge somewhat disdainfullie, he would shake his hedd somtimes which was answered with the like behaviour in the Secretary. Onlie the Erle once said he thancked God for his humblinge that daye, but he envied not the Secretarie.

Mr. Secretary continewed, and for that you have too slaunderouslie touched my fayth, and alleadgeance to her Majestie and my countrie by your seditious and false givinge out in London and this offensive affirminge that Secretarie Cicill had betrayed the State to the Spaniard, and offered to perswade a Counsellor

that ye Infantas title was next her Majestie, I defie all those that will saye it of mee; iff you ever heard me speake of it; speake, yf you heard it of others, name the author yf you dare, tell his name yf you dare, name him, name him, yf you dare.

Then the Erle with a passionate Interrogacion said, Doe I desire to live? why then should I feare to name anie man? But I require the Judgment of all these Lordes wheether it shalbee wysdom in me by namage anie honorable person yett untouched and bringe him into question.

Then the Erle of Shrewsbury stood upp and sayd yt for his part in conscience it should be no more to him, yf the man weare not named, then yf it hadd never been spoken.

After uppon further instance of the Lordes the Erle of Essex said that in deed he heard not the Counsellor himself report it, but it was told him by others, That Mr. Secretary used those speeches to a Counsellor whom the Erle of Sowthampton could name as well as hee.

Whereupon Mr. Secretary said to the Erle of Sowthampton: I require you, my Lord of Sowthampton by the pretious bond of all our auncient kyndenes, and amitie, by your duetie to God and your Sovereigne, and by all the pointes of Honour that you name the Counsellor that is said to have heard these speeches from mee. Or yf you will not I pronounce you heere as Impudent a traytor as he that standes by you.

Then after the Erle of Sowthampton turned his countenaunce to speake to the Erle of Essex which Mr. Secretarie excepted against sayinge, it was not well donn to suffer them to stand together to prompt one another for soe they had donn to muche alredy,

he named Sir William Knowles. Then at the request of Mr. Secretarie the Court yeilded to send a Sergeaunt of the mace for Mr. Controwller.

After his dispatch Mr. Secretary humblie and earnestlie on his knees desired that because he knewe not where Mr. Controwller was, or whether [her] Majestie would detaine him, another messenger *ex abundanti* might directlie be sent from the Lordes. He named Mr. Knevett a gentleman of the privie Chamber standinge by the Lord Steward. And ye Court at last agreed, whoe beinge readdie to goe was stayed by Mr. Secretarie addinge this of himself, that his humble petition was that it would please her presentlie to send Sir William Knolls to ye Lordes that he might resolve the Court, otherwise yf it should please the Queene's Majestie to detaine him he would live and die her faithfull servaunt and vassall, but would never serve her in place of a Counsellor more. Marke, said he to Mr. Knevett, what I speake, I will live and die her faithfull subiect and vassall but will never serve her in place of a Counsellor more, yf shee refuse to send Mr. Controwller to the Lordes. And I adiure you by the blood of a gentleman and as you will aunsweare at the dreadfull daye of Judgment that you deliver this message in the same wordes I have spoken it.

Then the messenger departed and Sir Robert Cicill in the meane tyme spake openlie that it may please the Lordes to note this one circumstannce, howe great a weaknes (said hee) and want of consideracion had it been in mee to have disclosed soe great a secreat as might touch my whole estate, and beinge onder the alleadgeaunce of my prince drawe all in question, in revealinge suche a secrett unto Mr.

Controwller : marke (said hee) onto the Controwller, unckle to that Erle, my professed enemy, howe likelie is it that I should reveale suche a secreat matter against myself, I quoth Mr. Attorney consideringe it is playne treason to give the Infant of Spayne title to ye Crowne of England, for that weare to denie the rightfull title of the Queene that nowe Raignes. Mr. Secretary proceeded, And yet though I had spoken of the Infantes title as peradventure I might by waye of discourse you are not so ignorant my Lord but that you knowe what a Counsellor may speake in suche cases. And I beinge Secretarie of State must needes understand these matters of Title, and you knowe that the infanta, the Kinge of Scottes, and yourself too (my Lord) have been numbredd amonge the competitors. Yea I thancke you for it, said the Erle, and added, I pray my Lordes marke what I saye that you Mr. Secretarie should hold the infantas title comparativelie to be best; and heere aboutes the Erle of Essex said (my Lord) and the Secretarie takinge it as spoken to himself said, noe (my Lord), I am noe Lord but a poore gentleman and servant to her Majestie. The Erle replied, but you are above a Lord?

Heere came in Mr. Controwller and Mr. Secretarie demaunded of him, whether he had at anie tyme heard him maintayne the infantes Title to the Crowne of England before other. The Controwller first desired to knowe whether the Erle had heard him saye so, to whom the Erle aunswered noe, not I my good Unckle, neither would I name you, and againe Mr. Controwller asked whoe had carried that report to ye Erles, (and beinge denied it) confessed howe in Greenewich garden Mr. Secretary had speech with

him about it the last sommer ; and he remembred well the Secretary had cited a booke, goinge under the name of Dolemans, wherein that title was preferred before anie others, and offered to shewe him the Booke, but never perswaded him of the truth thereof.

Heere my Lord of Essex said wee heard he should speake it affirmativelie not historicallie.

Then sayd Mr. Secretary, I thancke God of this daye that I stand cleered before myne enemyes, and proceeded : Where it is blased by the Erle and his complices that I should endeavour to translate this kyngdom to the Spaniard, I protest before the God of Heaven, I am so farre from affectinge of them, that I hate the Spaniard and all that belonge to the Spaniard as muche as anie thinge in the world : and you know, Lord of Essex, that you never undertooke anie action against the Spaniard that I was not of Councell in. I, said the Lord of Essex with what mynde, God knows ; nay replied ye Secretarie with what mynde you did go about them God knowes ? I pray God forgive you, your uncharitable thoughts of mee ; Nay, replied the Erle, I pray God forgive you your misconceit of my uncharitablenes towardses you, you knowe well I hazarded my self and putt my life in adventure in those accions when you weare quiett and saffe at home. Well protested Mr. Secretary, God forgive my soule as I heere forgive you ; and I you, said the Erle. Then Mr. Secretary said, upon my soule and conscience you are a Traytor.

The Erle of Essex heere entredd into vehement protestacions that howsoever the Lawe might bringe his actions within the compasse of treason, yet his

conscience acquitted him from anie disloyall thought either against his sovereigns crowne or person : Yea, said Mr. Secretarie you doe well to denie that, lest as you have shewed your self a rebellious Traytor, so you should die an Impudent traytor.

Heere Mr. Attorney urged the Erle with the small proof against Mr. Secretary. The Erle annswered ; Oh, I have other proofes yf you will needes have me utter them, to which nothing was replied.

Then Mr. Bacon entredd into a speech muche after this fashion. In speakeinge of this late and horrible Rebellion which hath beene in the eyes and eares of all men, I shall have my self muche labour, in openinge and inforcinge the pointes thereof. In so muche as I speake not before a Countrie Jurie of Ignorant men, but before a most honorable Assemblie of the greatest Peeres of the land, whose wisdom conceaves far more than my tonge caun utter ; yet with your gracious and honorable favors I will presume, yf not for Informacion of your honors yet for discharge of my dutie, to say this muche ; no man can bee ignorant that knowes matters of former ages, and all histories makes it plaine, that there was anie traitor heard of that durst directlie attempt the seat of his liege prince ; but hee allwaies coullored his practizes with some plausible pretence ; for God hath imprynted such a majestie in the face of a prince that no private man dare approach the person of his Sovereigne with a traytorous intent and therefore they runne another side course *oblique et a latere*, makinge shewe, some to reforme corrupcions of ye state and religion, some to reduce the Auncient Liberties and customes pretended to be lost and worne out, some to remooove those persons that beinge in highe places make them-

selves thereby subiect to envie, but all of them ayme at the overthrowe of the state, and destruction of the present rulers ; and this likewise is the use of those that worke mischeef of another quallitie, as Cayne that first murderer tooke upp an excuse for his facte shaminge to outface it with Impudencee. Thus the Erle made his Coullor the severinge some great men and Counsellors from her Majesties presence and favor and the feare he stood in of his pretended enemies, lest they should murder him in his house. Therefore hee sayeth he was compelled to flie into the Cittie for succour and assistance not muche unlike Pilistrates (Pisistratus) of whom it is soe auncientlie written howe he gashed and wounded himself and in that sort rann cryinge in Athens that his lief was sought, and like to have benn taken awaye, thinkinge to have moved the people to have pitied him and taken his part by suche counterfeyted harme and daunger whereas his ayme and drift was to take the Government of the Cittie into his handes, and alter the forme thereof. With like pretences of daungers and assaultes this Erle of Essex entred ye Cittie of London and passed thorough the bowells thereof blanchinge rumors that he should have benn murthered, and y^t ye State was sould, whereas he had no suche enemies, noe suche daungers, perswadinge themselves that yf they would partake all would have donn well. But nowe *Magna scelera terminantur in hæresin*, for you my Lord should knowe that though princees give their subiects cause of discontent, though they take away the honors they have heaped upon them, though they bringe them to a lower estate, then they raysed them from : yet ought they not to be soe forgettfull of their alleage-

ance that they shold enter into anie unduetifull acte ;
muche lesse open rebellion as you my Lord have
donn ; all whatsoever you have or cann saye in
aunsweere hereof are but shaddowes and therefore me
thinckes it weare best for you to confesse, not to
iustifie.

Heere the Erle of Essex spake ; To aunswerre Mr.
Bacon's speeche at once I say this muche ; and call
forth Mr. Bacon against Mr. Bacon, you are then to
knowe that Mr. ffrauncis Bacon hath written two
letters,¹ the one of which hath been artificiallie
framed in my name, after he had fayned that other
in Mr. Anthonie Bacon's name, to provoke me, in the
latter of these twoe he laies downe the groundes of
my discontentment and the reasons I pretend against
myne enemies, pleadinge as orderlie for me, as I
could doe myself, muche suche matter it contaynes,
as my sister the Ladie Riche her letter [shows] upon
which shee was called before your honors. Yf those
reasons weare then iuste and true, not counterfett,
howe cann it bee that nowe my pretences are false
and iniurious, for then Mr. Bacon joyned with me in
myne opinion and appointed out those to be myne
enemies, and to hold me in disgrace with her Majestie
whom he seemes nowe to cleere of suche mynde
towards me, and therefore I leave the truth of what I
saye, and he opposeth unto your Lordshipes indifferent
consideracions.

Heere, Mr. Bacon said, for those letters (my Lord)
yf they weare heere they would not blushe to be
seene, for anie thing conteyned in them.

¹ These letters are printed in *Letters and Life of Bacon*,
vol. ii. p. 197.

I thinke so too (said the Erle of Essex) for you have putt them into manie men's handes.

Well my Lord (replied Mr. Bacon) I have spent more howers in vaine in the studie howe to make you a good servant to her Majestie and the State then I have donn in anie thinge else.

Whoe I Mr. Bacon? a good subiect? by *your* studie! (said the Erle of Essex with a scornfull countenance).

After this were redd the Examynations¹ of Sir Charles Davers, Sir Christofer Blunt, Sir John Davis,

¹ The evidence of these witnesses is set out comparatively fully by Howell. The first three who speak to the conspiracy do not add much of importance to Gorges' evidence, but each adds a little. Davers says:—

'The intent was to surprize the captain of the guard (Raleigh) at the court, or at his own house, and some others; and then to surprize the Tower of London; and that the Earl of Essex resolved (these things having been accomplished) immediately to have called a parliament to reform disorders and private grievances.'

Sir John Davis says:—

'The question was asked the Earl of Essex, How he would deal with offenders, and such as resisted him, after he should be possessed of these things? He resolved them by way of Answer, That he meant to admit them all to an honourable trial.

'Sir Christopher Blunt—being demanded to what end they went to the city, to join with such strength as they hoped for there; he confesseth it was to secure the earl of Essex's life, against such forces as should be sent against him. And being asked, What, against the queen's forces? he answered, That must have been judged afterwards. . . . Being asked, Whether he thought any prince could have endured to have any subject make the city his mediator? or to gather force to speak for him? he saith, He is not read in stories of former times; but he doth not know but that in former times subjects have used force for their mediation.'

The second three speak to Essex's expedition to the city, and to Essex's calling out that England was sold to the Spaniard.

the Erle of Rutland,¹ Lord Cromwell,² Lord Sandes, the three first beinge of the consultacion at Drewrie House, and confessinge in substance as muche as Sir fford. had before ; upon which consent Mr. Attorney urged that beinge severallie examined without Racke or torture it must needes be true, that they all his adherentes agreed in.

The Erle aunswered, the self feare, and self desire of life, may make the severall examynantes agree in one thinge, beinge examined by the same persons.

Sir Charles Davers, for his parte, confessed that he followed the Erle of Southampton in Love, neither went he upon anie mallice or private discontentment otherwise, that the possessinge of the Cittie and tower was to give reputacion to the Action, that he concealed the Erles entent was to secure his Accesse unto the Queene.

Sir Christofer Blunt added that himself was reconciled to the Church of Rome, that the Erle of Essex sent for him before the insurrection, that he looked

¹ Roger Manners, fifth Earl of Rutland (1576-1612), succeeded his father when a child, and was brought up at Queen's and Corpus Colleges, Cambridge, under Burleigh's guardianship. He afterwards travelled abroad, 'Profitable Instructions' being drawn up for his instruction on this occasion; they were published in 1633 and assigned to Essex, but were probably written by Bacon. He went to Ireland with, and was knighted by, Essex, but soon returned. For his share in Essex's plot he was fined £30,000. He recovered favour under James, and was occasionally employed on public business.

² Edward Cromwell, 3rd Baron Cromwell (1559-1607), the great-grandson of Henry the Eighth's Thomas Cromwell, served under Essex in France, Spain, and Ireland. He was tried for his complicity in Essex's plot in March, and fined £6000. He afterwards settled in Ireland.

for an alteration of the Government and a tolleracion.

Sir John Davis added, that there was purpose to admitt all his enemies to an honorable triall all three confessed of a purpose to call a parliament.

To Sir Christofer Blunt, his confession, the Erle of Essex demanded ; But before whom was this confession taken ; Oh, said Mr. Attorney, before my Lord Admiral, Mr. Secretarie and dyvers others ; but heere is his owne hand for it, and so shewed it to the Erle, whoe viewinge it said surelie he was madd, when he subscribed to it, and added that it weare good that Sir Christofer Blunt had been asked what he meant by the speech of his concerninge that Chaunge of Government ; Mr. Attorney aunswared what could he meane but that you would have called a parliament (as Sir John Davis confessed) and beinge kinge you might, and soe have altered Religion, and chaunged the Government. A parliament, said the Erle of Essex, and I a kynge ? and so abruptlie endinge.

The Lord Admirall justified the confession (as beinge one of the examyners). To which speeches the Erle of Essex aunswared, I have accused no man heere to daye, neither will I, for it is not my purpose to bringe anie man into question further then his owne confession will Detect him, but before I die it shall appere howe I have behaved myself in this Action and what mynde I bare to others, and this muche I protest (which some maye impute to vain glorie to utter heere) that it hath been my custom ever since I went to the tower, everie night before I slept, I bowed downe the knees of my hart to God and lifted up my soule to him by prayer, and never ceased till I obtained peace and quiettnes to my con-

science, in regard of my sovereigne and sincere charitie to all men, that I might not so muche as thincke evill to myne enemies, and thus I laid myself on bedd; and thus I protest before God (which knoweth my hart and graunted these my petitions) I have used myself everie night. So farre was my hart from thinckinge treason against my gracious soveraigne Prince.

Nay, said Mr. Attourney for your hipocrisie in Religion, and your Dissemblinge countenancinge all sortes of Religion Anon you are one of the puritans, thus have we prooved almost all thinges in the Inditement.

Heere the Erle of Essex bidd him speake the verie venym of his hart against his religion, and desired the Lordes that he might, or anie other to that point speake their uttermost with all his hart, and thus he began a speech to cleere himself in matters of Religion. I thanke God I have occasion offredd me this daye, before this honorable and Christian assemblie, to make profession of my faith towards God, and of the Religion, wherein I have hereunto lyved, and wherein I resolve and hope to die; for where it is avowched that I have chosen papistes into my Companie, and therefore must joine in harmonie to make up the consort, I must confesse, I have been thought to favour poore ministers to muche, and I intreat your honores patience in this case, to consider what I speake; for Sir Christofer Blunt I confesse I knewe him to bee a papist, but I pray remember, that he married my mother, is a gentleman that hath don her Majestie great service, both under mee, and otherwise. Neither had I commission to call him into question for matters of Religion yet he cannot denie (and I protest it on my honour) howe I have often

dealt with him, in this point, even to perswade him ; for howe could I like that in him, which I should have counted Heresie in myself? And he hath told me, I have been too rigorous against the Catholickes, to whom I replied, yf he looked into my actions he should fynd it otherwise ; howe temporable I proceeded against them, when I was in my most grace and favour with her majestie and then hadd most power to doe them harme. And this was all he could streyne to gather hope of a tolleracion by. For Sir John Davis I assure your lordships I thought him no papist and my whole houshold cann beare me wittnesse howe he frequented prayers and Sermons for that tyme he was in my house, as orderlie as anie servant I kept, and was then with as great a reverence to my sight as anie other. (Then was hee noo Recusant, but a dissembling Papist, which was worse, sayd the Attorney.) The Erle contynewed, Nowe my Lordshippes I cannot Judge of anie man's Religion but by workes I may well see into his Deedes but cannot dive into his conscience ; As for Mr. Tressam and Mr. Catesby whom you report I have loved and trusted, one of which I protest, I never knewe but three daies before this occasion fell out, Att which tyme, he came, as a man, that shewed affection to-wardes mee, and both of them rather joined with other their ffryndes, then followed mee, uppon anie acquaintance or message they hadd for they had none from mee. Lastlie whearas it is openlie affirmed y^t I am a Sectary, a Puritane and a papist, of all religions and so an Atheist, and under those pretences have coullored my traytorous intencion, I am gladd before my death, that God hath permitted mee to speake and make my confession before so open and honorable

an Assemblie; some of which I doubt not but their consciences beare them wittnes of my Synceritie in this poynt; ffor God forbid that I whoe have been esteemed a man of Religion, and zeale, nowe in ye declyninge estate of my life and fortunes should encline to Hipocrisie; or atheisme. And for my favoringe puritans (as you tearme them) I protest I never favored anie of that note but suche as thought peradventure in their youth they have been seeme to hott spiritted, yet after more yeares they have prooved staid in Judgment, grave in government and temperat in their actions, no movers of Innovacions thoughe some other perhaps might abuse their mylde honest disposicions to countenaunce their owne ignorance and rashnes. As for papistry I hate the verie Imputacion thereof, soe farre I am from countenauncinge or professing it myself; for howsoever I may bee depryved of my honor and transitorie Happiness by the lawes of our land, yet God forbid by mee, that his name should bee dishonoured or his true servauntes slaundered, and the weakness of poore Christians offended, yea of suche as havinge tooke comfort in my constancie and resolucion that way, would take offence at my fall. Howe manie consciences upon the Report of my sondrie Religions might have condemned mee, and justly they might yf I hadd not onlie benn an Atheist, but under coullor of Reforminge Religion would have sought the subversion of this estate and allso the death of my gracious soveraigne, whom I pray God blesse even to the Worldes Ende. But this I say before God and all the consciences here present that yf ever I aspired to anie higher place in this Kingdom, then as my birth and service to my soveraigne and Countrie

might seeme to merritt amonge my fellowe subiectes, or yf ever I had an Imaginacion or thought against my dreadd soveraigne and Pryncesse to deprive her either of her sacredd lief or Regall Auctoritie, or yf I have not had a sinceere fayth in God and a true love in this Religion, which hetherto I have lived in & professed in which I resolve and hope to die; Lett God the searcher of all hartes and consciences before this whole assemblie strike mee with some present and notorious Judgment from Heaven to make mee an example to all the woorld of Hipocrisie and Irreligion. And this he spake seriously with great fervencie and motion of mynde and bodie.¹

Heere againe Mr. Attorney offered to proove as muche as he had affirmed touchinge his Religion, but the Court refused to heare him in that point, onlie some speeches Mr. Attorney used wherein he charged the Erle of Southampton with his Acquayntaunce and familiaritie with divers semynaries and priestes, but the Erle protested he never knewe Jesuite seminarie nor priest more then one with whom he never conversed.

The Lord Rutland beinge in London with the Erle he heard him say that England was sould to the

¹ See *Letters and Life of Bacon*, vol. ii. p. 228, for Spedding's account of Essex's religious belief, which he considers as 'simple, earnest, and unaffected.' The passage concludes: 'The tone in which he (Essex) replied to this charge, and solemnly affirmed the sincerity of his faith in the religion which he had all his life professed, contrasted strongly with the weakness and inconsistency of his answers upon the questions really at issue, and made a corresponding impression on the Court; insomuch that when Coke offered to reply and make good his accusation, they refused to hear him.'

Spaniard : He affirmed that the Erle of Sowthampton was a parson much discontented, and was of inward Counsell with the Erle of Essex and that he heard the Erle saye he was sure of Shiriff Smith.

The Erle of Southampton answered for his part the Lord of Rutland never saw him discontented.

The Erle of Essex said that for Shirive Smythe he had no suche Interest in him, as that he could affirme him to be sure unto him, he went to his house as takinge him to be an honest man, that would not see him harmed ; and that he knewe not ye Lord Maiors house.

The Lord Cromwell mett the Erle in fleet Streete and went alonge with him in the streetes where he heard him crie out that it was for the good of the Queene and you all my masters, that he soe passed to Shiriff Smythes.

The Lord Sandes saieth that he was sent for the Sondaie morninge by the Erle of Essex : and cominge to his house he found but a fewe there in a short space my Lord Sowthampton and the rest came. He confessed about my Lordes charge at Ludgate, which my Lord denied to bee of his parte and said they that went with him, onlie weare hurt and slaine, as his boy Tracy shott and killed just before him, hymself fairelie myssed when his hatt was twice shott. He confessed he heard the Erle of Cumberland was there, and he would willinglie have spoken with him, but when he came to the place he found it kept by Sir John Lewson, and desired passage that waye which beinge denied he retired, and to this Sir John might speake he said, whom his eye had singled out standinge neer upon a scaffold where presentlie he was sworne and demaunded his knowledge, which

he delivered accordingly with good gravitie and moderacion, declaringe that ffive severall messages were sent he knewe not whether trulie, but on the name of the Erle. Edward Bushell, John Bargar and Sir fford: Gorge weare the men whoe desired passage throughe Ludgate as for the Erle, which he denied, standinge there for the Queene by the appointment of the Erle of Cumberland and the Lord of London. Edward Busshell told him that they departed in good termes from the maior and shiriffes, but Sir John sawe no warrant he said. Then Edward Busshell told him he would be cause of sheddingge muche blood. Att the last Sir John said the first shott was made from the Erles companie, by one with a petronelle, and the charge given thereupon by one of them whom he thought on his conscience to bee Sir Christofer Blunt, and he had this reason besides his owne knowledge of the thinge, that his companie gave not the Charge for that they weare sett there onlie to make the place good.

The Erle of Essex denied that he sent anie, save Sir fford: Gorge whoe he meant should deliver the Lord Cheef Justice, to goe to the Court.

Sir John Lewson heard not my Lord speake to them neither didd he heare him give the charge beinge manie ranckes from the ffront. He cleered in like sort my Lord of Sowthampton.

And he the Erle of Southampton whoe had hetherto spoken but little began to aunswere the Accusacions in generall as they concerned him. And first to the Consultacion he confessed were divers motions which were cast awaie, as they weare spoken (viz.) the takinge of the Tower, and that nothinge was resolved uppon,

and for his parte yf he understood the Erle of Essex his intent was no further but that he might securelie have accesse to her Majestie to deliver suche matters as muche imparted as well himself in privatt as the good of the State in publique, and that was his meaninge he protested onlie to make the Erle passage as his frynde and one that meant to doe good service.

Heere Mr. Attorney told him, yea my Lord you meant to bringe him in with stronge hand to the Queene.

No, Mr. Attorney, said the Lord, wee meant it without violence and therefore consulted howe it might bee best effected ; and for the Action I protest to God, on Sondag morninge I knewe not of it, but came as I was wont to my deare ffrinde accompanied with some dozen of my ffollowers and no more. When I came to Essex house, I found my Lord standinge on his guard, my Lord told mee howe he was like to be murdredd, and desired me to stay with him, then which I could doe no lesse for my friend. Afterwardes I understood that the Counsellors were there but heard them not, I protest, deliver anie message to my Lord of Essex, the tumult and noise beinge so great and I not neer them. And this my Lord Cheef Justice I thinke cann testtifie.

Then stood up my Lord Cheef Justice and questioned my Lord Sowthampton ; Didd you not heare my Lord Keeper speake to my Lord of Essex you and the rest that you should disperse that tumultuous companie, and you should be heard at large what you could saye ? To which the Lord Sowthampton protested upon his faith to God, he heard it not : Then the Lord Cheef Justice said : well I marvell of it, for

sure he said it, but I beleeve your Lordship and so sate downe.

Afterwardes said the Lord Sowthampton I went with my Lord into the Cittie as his friend in a private quarrell. Heere the Attorney excepted against it, and said, this is plaine treason my Lord I will proove it; for anie subiect to rise with a Companie of Armed men with intent to revenge a privatt quarrell, it is playne Treason. Oh! Mr. Attorney give me leave said the Lord Sowthampton; why say you armed men? I protest before God; I hadd no more weapon about mee than my Rapier and Dagger. That is enough weapon, enough to make an armed man; Oh said the Erle of Essex: say you soe, Mr. Attorney? By this you proove yourself, to bee a better lawier than a sowldier.

But said the Attorney yf it be soe admitted, for the Lord Sowthampton himself, yet brought you manie in your Companie, so compleatlie armed with swordes, Targattes etc. as was sufficient in the Lawe to condemne all the rest; which weare joyned with them.

Then the Lord Sowthampton proceeded; And my Lordes, as I heard not those wordes soe I heard not anie proclamacion neither anie thinge in the Cittie that could be construed to Rebellion as I tooke itt.

Heere Mr. Attorney asked him, where he was at the tyme of the proclamacion and he aunswered I stood still att Lambertes streets end till my Lord retorned from Cornehill.

Mr. Attorney said hee was guiltie of those speeches that were given out in my Lord of Essex house. The Erle of Sowthampton said, he thought noe, for what was it to him when hee was none of them that either spake or heard. Mr. Attorney would proove

he was, and then he drewe out his evidence that did not convince him in the point in question ; whereto the Erle of Sowthampton said it was uncharitable forced by Mr. Attorney and absurdlie.

I thanke God (sayd hee) that you are not my Judge, and then he contynued his owne narration that from Cornhill my Lord came backe to him, and they went alonge towards Ludgate, where my Lord of Essex could not have passage to his owne house. Then I came backe with him to Queene Hyve where wee rowed to Essex house, and thus protestinge his zeale and reverence towardes her majestie though in all this or in anie parte thereof I might bee in an errour and so fall into the Daunger of the same. So that her Majestie maye, yf shee please, take my lief, yet I knowe her Majestie is gracious and mercifull and therefore maye please to pardon mee. And I doe humblie crave her Majesties pardon for my errour. And I doe relie uppon her mercie. And though in nice pointes and queerkes in Lawe I bee founde a traytor yet in hart I am none, for I had no evill intent.

Then ye Lord Admirall beinge the uppermost of one side of the Court stood upp and said, all the Lordes of his parte weare desirous that for that point the Lord Cheef Justice and the other Judges would deliver their oppinion of the Lawe whether their risinge to goe to the Court with suche a Companie onlie to present the Lord of Essex his complaints without all manner of purpose of violence to the person of her Majestie or anie other whether this weare treason ; And he demaunded also the Lordes on the other side whether they weare of the same mynde, whoe aunswered yea verie willinglie.

And the Lord of Sowthampton added that yt was his Desire allso, and prayed them that he might be suffredd to putt the case to them and said that the Consultacion was not resolved uppon, being onlie a motion, as the confessions made plaine referringe the Resolucion to the [earl of] Essex. And for this Action it fell out by accident. Soe he tooke it they weare asunder, to be considered not as one Acte. But Mr. Attorney urged their dependancie. At the last the Erle of Sowthampton putt the case after thys sorte, whether suche a tumultuous Acte, without anie intent of treason, weare to bee adiudged Treason. Mr. Attorney stood upp and aunswered whoe doubted it? The Erle of Essex replied, that the acte was to be judged by the intent in conscience. Nay, said Mr. Attorney, our Lawe judgeth the entent by ye overt Acte. Well, said the Erle, pleade your lawe, and wee will pleade conscience.

Then the Lord Cheef Justice begann and gravelie sayd his opinion that the Acte made it treason alone, and so the other Judges for the most parte. Mr. Attorney added it was no question, ffurther the Attorney objected earnestlie what they would doe in proceedinge in that action of seazinge the court and all places of resistance there yf there should bee anie resistance made to their passage surelie, said hee, there needes bee blood shedd, and therefore the Consequence of their intent must needes be violence, for they could not choose but cast this doubt in their consultation. The Erle aunswered he desired onlie to have ffree accesse unto her Majestie, without sheddingde on droppe of blood.¹

¹ This speech is reproduced by Spedding from an ms. in the

Heere Mr. Bacon spake, may it please your grace my Lord, since this, a daye of digressions, and you see howe weaklie hee hath shaddowed his purpose, I will onlie trouble your Lordship with one point wherein

Bodleian Library, with one sentence added from Mr. Jardine's account of the trial, as follows:—

'I have never yet seen in any case such favour shown to any prisoner; so many digressions, such delivering of evidence by fractions, and so silly a defence of such great and notorious treasons. May it please your Grace, you have seen how weakly he hath shadowed his purpose and how slenderly he hath answered the objections against him. But, my Lord, I doubt the variety of matters and the many digressions may minister occasion of forgetfulness, and may have severed the judgments of the Lords; and therefore I hold it necessary briefly to recite the Judges' opinions.'

This being done, he proceeded to this effect:—

'Now put the case that the Earl of Essex's intent were, as he would have it believed, to go only as a suppliant to her Majesty. Shall their petitions be presented by armed petitioners? This must needs bring loss of liberty to the prince. Neither is it any point of law, as my lord of Southampton would have it believed, that condemns them of treason (but it is apparent in common sense). To take secret counsel, to execute it, to run together in numbers armed with weapons—what can be the excuse? Warned by the Lord Keeper, by a herald, and yet persist! Will any simple man take this to be less than treason?'

The Earl of Essex answered that if he had purposed anything against others than those his private enemies, he would not have stirred with so slender a company. Whereunto Mr. Bacon answered:—

'It was not the company you carried with you, but the assistance which you hoped for in the city which you trusted unto. The Duke of Guise thrust himself into the streets of Paris on the day of the Barricades in his doublet and hose, attended only with eight gentlemen, and found that help in the city which (thanks be to God) you failed of here. And what followed? The King was forced to put himself into a pilgrim's weeds and in that disguise to steal away to scape their fury. Even such was my Lord's confidence too, and his pretence the same—an all-hail, and a kiss to the city. But the end was treason, as hath been sufficiently proved. But when he had

this Rebellion of the Erle of Essex resembles the Duke of Guys his Action that came upon the Baricades at Paris in his Doublett and hoose, attended uppon but with 8 men because his confidence was in the Cittizens. Even suche was the Erles proceedinge, and as when the Kynge takinge armes against the duke, and forced him to yeild the Duke coullored his pretence upon some private daungers. So nowe the Erle in his practizes beinge discovered alleages the cause to be private quarrells and ffeares.

To this the Erle aunswared little. Mr. Attorney further asked, what he said to Bushells confession that shewes he confederated with ye Cittie, for he said he was betrayed by the Cittie. Bushell, he said, that confessed this was his confident whom he trusted with his secrettes. The Erle aunswared for Busshell he was his servant, and he trusted him no further then in his place was fitt for a master, and for those speeches they might import, onlie that his expectacion of succour in his daungers was deceived.

Mr. Attorney further demaunded howe he meant to reward those needie ffolowers that accompanied him in this proiect for surelie they followed him with some hope, and that could not bee satisfied without some reward which must needes arise out of the spoile of some of her Maiesties Subiects.

To this the Erle answered little, implyinge by his countenance he urged to farre.

once delivered and engaged himself so far into that which the shallowness of his conceit could not accomplish as he expected, the Queen for her defence taking arms against him, he was glad to yield himself; and thinking to colour his practices turned his pretexts, and alleged the occasion thereof to proceed from a private quarrel.'

Letters and Life of Bacon, vol. ii. p. 229.

The speeches of the Erle of Essex cryinge to ye people that they should departe, except they weare armed, for they didd but trouble him was urged.

The Erle aunswered, what he spake was by reason of ye multitude and throng that was reddie to overthrowe and tread uppon them.

Mr. Attorney further urged the Lord Essex and the Lord Sowthampton with their speeches at Essex house where they refused to yeild themselves to the Queenes livetenaunt.

The Erle of Sowthampton aunswered he delt to bringe my Lord of Essex to a parlie, and my Lord Admirall reported the manner of my Lord of Essex standinge out and yeildinge. And the Erle of Essex heere confessed that he was perswaded to yeild by the Erle of Sowthampton and Rutland for he thought not so to have done though nowe I thanke God for it, and he said that Salisbury shott against his will.

And heere my Lord Admirall mentioned his promisse to the Erle of Essex when the Erle yeilded to him, namelie that he should have an honorable hearinge and triall which he demaunded the Erle whether he hadd or nott nowe performed.

The Erle of Essex aunswered, you have used me honorablie my Lord.

Mr. Attorney allso urged the Erle of Essex practizes with Tirone with whom hee was charged to have hadd intelligence by meanes of Captaine Lee¹ that traytor whom you sent to Tyron.

Whoe I sent? Thomas Lee? said Erle of Essex, I sent him not; and I heare he was one against me the last daye.

With that the Lord Admirall stood upp and re-

¹ See p. 91.

ported, as the [friend of the Erle of Essex, how Lee,] indeed, offered himself against ye Erle to kill him. But Mr. Secretarie and himself misliked anie suche base course notwithstandinge he was still urgent uppon one or other to bringe him to the Queene that he might make the same offer to her. But the Lord Admirall said, hee hadd an eye to him, as knowinge him to bee a murtherous fellowe. And afterwarde he entredd into that traytorous practize against her Majestie for which he was justlie executed. Yea answered the Erle of Essex, and so perishe all those that meane harme to her Majestie. I defie his traitorous attempt, yf there weare anie suche, and am sorrie he was alleged unto anie that are neer to mee. And for that confederacie with Tirone I thinke your Lordshipes have not forgotten howe I cleered myself not longe since before some of you uppon the relation of the whole state and counsell of Ireland.

Nowe the peeres beinge reddie to goe together about the verdict, the Erle of Essex deteyned them with a speech to this effect that thoughe these subtile persuasive orators that thinke they have never performed their duetie untill they have made suche persons odious, as are subiecte to their accusations though these might lead the light eares and shallowe conceites of a mulltitude, yet that suche honorable persons (as these their peeres) whoe weare of more deepe understandinge and Judgment to search the truth and waye all thinges in the Ballances of their wisdomes would no doubt bee constant and unmooved not to swerve from the equitie which lay in charge uppon their honors here and soules health hereafter. But howsoever they determined of him *in foro judicii* yet he knewe he should assuredlie stand acquitted *in foro conscientiae*.

Thus likewise the Erle of Sowthampton beseeched their Lordshipes to consider his cause (whoe rather was ledd, then a Leader) with Indifferencie, which he doubted not their Lordshipes would performe honorable.

And both the prysoners weare comaunded from the Barre to the Lyuetaunant of the Tower where the Erle of Essex contynued pleasant and cheerfull. And the Peeres withdrewe them into a little roome built att the chauncerie barre where havinge consulted and called for the Judges to resolve them in some pointes after half an hower they retorned and placed themselves in their order. Then the Lord Highe Steward demaunded of them severallie their verdict, beginninge at the puny and so upward, first upon the Erle of Essex, after this sort. The Sergeant called the Lord Thomas Howard by his name as before, whose standinge upp uncovered, attended the Lord Highe Stewardes demaunde, delivered with suche wordes, you have heard Robert Erle of Essex this Daye indited of Highe Treason, and arraigned. Howe saye you, is he guiltie or not? my Lord? Speake uppon your Honor. His Aunswere was, I hould him guiltie of Highe Treason uppon myne honor, layinge his hand uppon his breast withall. In this forme was it demaunded of the rest whose gave their verdictes in like manner, as after they did uppon the Erle of Sowthampton. Their verdictes beinge given and the prisoners at the Barre againe, after a little pause the Lord Highe Steward said: Robert Erle of Essex and Henry Erle of Sowthampton you have beene heere arraigned and Indited of High Treason; you have pleaded not guiltie and for your triall putt your-selves uppon God and your peeres the nobillitie here whose

have heard the evidence and your obiections and aunsweres in your Defence, have found you guiltie. Nowe what cann you say for yourselves why I should not proceed in Judgment.

The Erle of Essex heere said I beseech your Lordship and the rest of the Lordes to have consideration what I have formerlie spoken, and to doe mee that right, as to thinke me a Christian, and that I have a soule to save knowinge nowe it is no time to rest. Lyinge and counterfeytinge my soule abhorreth. I doe not speake to save my lief for I see that weare vaine and I owe God a death which shalbe wellcom, howsoever it shall please her Majestie; but what I have spoken this daye I have spoken trulie and confidentlie, to cleare myself of all treacheries and disloialties to her Majestie, and to satisfie the opinion of the world, that my conscience is free from Atheisme and poperie. And howsoever, he said, by the Lawes of the land he weare made guiltie yet there was a Lawe in his conscience and a tribunall seate in Heaven where he doubted not before the highest Judge of all mens soules and consciences his hart should be found as cleere from all traytorous intentes against his soveraigne as he often had protested that daye it was. ffarther the Lord Highe Steward putt the Erle in mynde that his duetie and loyalltie should have been so muche the greater towards his soveraigne by howe muche her graces and favours weare extraordinarie towards him so that in XV yeares her Majestie had even heaped manie honorable dignities, and bountifullie bestowed manie great sommes of monie of him farr beyond anie of the Nobilitie. Nowe what a straunge matter was it that, notwithstandinge all this, he should enter into suche an acte

towardes so gracious a prynce, and seeke her overthrowe whom God made his soveraigne, and whose sometime had made him her cheef servaunt, that these reasons duly waighed he could not chuse but stand abashed to be thought worthy the Judgment of a traitor which nowe by his place he was readie but sorrie to pronounce against him.

To thys the Erle of Essex aunswered, desyringe his Lordship to thincke that he so thanckfullie remembredd and so highlie esteemed her Majesties infinitt favors towardes him (farre more than they spake or knewe) that besides the bond of his Alleadgeaunce yf he had a thousand lives to sacrifice in her Majesties service he could not discharge his obligacion ; And for his soveraigne he would desire no other testimonie but his sundrie faithfull services to her Majestie both in matters of Counsell and Action, as well at home as in fforrein Countries. For her Majesties Liberalities towardes him as it came most ffreelie, so he had made noe private gaine thereof, but that and his owne substance he had spent in her Majesties service, and the state, and in rewarding those whom he thought had well deserved of both.

The Erle of Sowthampton said for my parte I must saye as before I have, I perceave my ignoraunce in the Lawes hath made me incurre the daungers of it. Therefore I desire you my Lords that cann witness I am condemned by ye letter of the Lawe, that you will trulie informe the Queen of what I saye and my penitencie for this my fault, I have been brought up from a child under her Majestie and imployed my whole time in her service, and have spent most of my patrymonie therein. I never became sutor in

myne owne behalf to her Majestie for anie thinge, neyther ever did I to my knowledge fall into anie offence against her Majestie before nowe; So as yf anie thinge of my service past may moove her Majestie to a gracious consideration of me, or yf there be anie thinge in mee yt may heereafter in anie sorte be tourned to her Majesties service I humblie entreat your graces favour so farre as to give me my life, and I hope your Lordshipes will signifie to her Majestie this my Humbleness and sorrowe of Harte for my offence, and my sute for pardon. I humblie relie on her Majesties mercifull disposition.

Now the Lord Highe Steward proceeded to pronounce judgment against them in such like woordes. Robert Erle of Essex and Henry Erle of Southampton, you are here Indited, arraigned and convicted of Highe Treason. Nowe you must goe to the place from whence you came, there to be laied on a hurdell, drawen to the place of execution, hanged and cutt down or you bee dead, then your members to be cutt of, and burnt before your faces, your heddes to be cutt of and your bodies to be quartered and dispersed at the Queenes pleasure, And the Lord have mercie on your soules. Judgment pronounced, the Erle of Essex said, I could have wished that my quarters might have been reserved to have down her Majestie better service, but howsoever yf it be her pleasure that they shalbe thus bestowed I shalbe content yf they may doe her service though but in this kinde. I desire not to live, nor crave her gracious pardon, not that I contemne her favour, but because I desire to die and perhapps the example of my punishment may be made profitable in her government, yet I humblie request that a true relacion may bee made of

my serious protestacion this daye of my innocent and loiall hart to her Majestie, and I hope the sprincklinge of my blood will washe awaye my offences and her Majesties displeasure against me for them.

He confessed then, he hadd been misledd and perswaded to transgresse the lawes otherwise he had never entredd into this offensive action. Then he made a petition to the Lord Highe Steward that he might have his owne preacher; it was aunswared that it was not so convenient for him at that tyme to have his owne Chaplein as another. The Erle replied, that yf a man in sicknes would not willinglie commit his bodie to an unknowen phisition he hoped it would not be thought but a reasonable request for him at that tyme to have a preacher which hath been acquainted with his conscience, to whom he might more boldlie open his hart, farther he desired the Lord Steward that he would be a petitioner to her Majestie that the Erle of Sowthampton and himself whoe loved, lived and nowe stood condemned together might continue in the companie one of another till ye time of her Majesties pleasure for their execucion, which ye Erle of Essex, for his parte, desired might bee as speedie as it should please her Majestie. He desired a gracious consideracion might bee hadd of those Lordes and gentlemen which were fallen into this action meerlie of good will towardses him. He said before his death he would make somethinge knowen, that should bee acceptable to her Majestie in point of State. To these petitions the Lord Highe Steward said he could not graunt them but would moove her Majestie in his behalf. Then the Sergeant att Armes stood upp with his mace on his shoulder, making an Oyes and saying: All Peeres

and other Persons appointed to bee heere this daye may depart to take their ease for the Lord Highe Steward is pleased to dissolve his commission. Then the white rodd was broken. The Court avoided, and the prisoners committed backe to the Tower whether the Axe was carried before them with the edge towards them. God save the Queene.¹

¹ There are two passages in Howell's account of the trial with which I find nothing corresponding in the Helmingham ms. After judgment has been pronounced and Essex has made his speech, Howell goes on:—

'As the lords were rising, the earl of Essex said, My Lord De la Ware, and my lord Morley, I beseech your lordships to pardon me for your two sons that are in trouble for my sake; I protest upon my soul that they knew not of anything that was or should have been done, but came to me in the morning, and I desired them to stay, and they knew not wherefore; And so farewell, my lords.'

In a short account of the execution, Howell, after naming the peers who were present as spectators, says:—

'There were present also some of the aldermen of London, and sir Walter Raleigh, who, if we may believe himself, came with an intent to make answer if anything should be objected against him by the earl at his death; but others thought he came to feed his eyes with a sight of the earl's sufferings, and to satiate his hatred with his blood. But being admonished not to press upon the earl at his death, which is the part rather of ignoble brutes, he withdrew himself further off, and beheld the execution out of the armory.'

For Raleigh's reference to this incident in his dying speech, see vol. i. p. 79.

It will be remarked that neither Howell nor the Helmingham ms. make any allusion to the well-known story of the jewel said to have been given by Essex to Lord Nottingham for him to give to the Queen as a token that she was pledged to help him in his last extremity. As to the truth of this story see Mr. Sidney Lee's account of Essex in the *Dictionary of National Biography*. Since it has not been my duty to repeat the story, I am not bound to investigate its truth; but

The execution of Robert Erle of Essex, the xxvth of February beinge Ashwenday, 1600, within ye Tower.

Uppon Ashwenday in the morninge about one of ye clocke the livetennant of the tower gave warninge to ye Erle of Essex beinge then in his Bedd to prepare himself to his death, which should ensue that present daye. Imediatelie upon notice thereof taken the Erle arose, and shortlie after Doctor Momford and Doctor Barlowe¹ were sent to him, whom, together with his owne chaplaine Mr. Ashton (that had benn with him all the tyme from his Judgment. Hee desired to joine with him in those exercises that might fitt him to his ende, nowe so neer approchinge,

personally I do believe it, I have in fact promised to believe it, because there is at Helmingham a portrait of Essex's daughter, Lady Frances Devereux, wearing the jewel as an earring; and in case this does not convince my readers, I may add that the jewel itself, a ring with a lock of hair, which may once have been red, hanging from it, is now at Ham House, the property of the Earl of Dysart.

¹ William Barlow, educated at St. John's, Cambridge, and a fellow of Trinity Hall, was introduced by his patron Cosins to Whitgift, who made him his chaplain and rector of St. Dunstan's-in-the-East in 1597, in which year he was also presented to a prebendal stall at Westminster. The Sunday after Essex's death he preached at Paul's Cross, following Cecil's instructions very precisely in publishing Essex's confession. He subsequently received abundant preferment, culminating in the bishopric, first of Rochester and then of Lincoln. He left the only extant account of the Hampton Court Conference of 1604, which he was appointed to attend as an opponent of the Puritans, and took part in the preparation of the authorised version of the Bible. He died and was buried at Buckden in 1613.

prayinge God so to blesse them as they came to comfort him. And the devines beinge with him for that purpose willingelie submitted to his request. Their exercises weare prayer, confession and preachinge; the latter was performed by Mr. Ashton at thentreatie of thother twoe as being best acquainted with his Lordes state. In the meane tyme was prepared for thexecucion a scaffold raised in the Highe Court towards ye churche that was some four feete highe and iij yardes over railed round with small poles; in the middest thereof lay the blocke beinge a peece of tymber of some half a foote over, and twoe foote longe rounded at the upper side. Betweene the howers of 7 and 8 of the clocke the Erle was brought by the livetenaunt of the Tower attended by some xvj of the guard to the place of execucion, beinge appparelled in a blacke vellvett gowne, a satten sute of the same coullour, and silk stockinges; he was in his slippers and neither girt nor trust. He had on a blacke felt hatt, and a ruffe band with a single sett. Thus he ascended the staires of the scaffold (havinge the 3 devines with him onlie) at his cominge up his countenance was neither light nor deiected, but with a constant and settled gate, he stepped into the middest where the blocke laye and with litle motion of his bodie, he lightlie putt of his hatt to the Lordes, viz., ye Erles of Cumberland and Hartf[ord], Lord Thomas Howard, Viscount Bynden, Lordes Darcie and Compton whoe weare seated on a forme on the north side of the scaffold some iij yardes from it, manie knightes, gentlemen, and others to the number of 100 persons standinge round beside them.

After his curtesie the Erle havinge paused a little

drew towards the lordes, desiringe the ministers to stande by him, yf he should wander or erre in speeche or behaviour that they might tell him of it, and so wholly puttinge of his hatt with a distinct and serious deliverie, somewhat passionatlie stickinge in his speeche, his eyes for the most parte lifted to heaven, He made a contestacion to this effecte: I desire your Lordships and you my Christian brethren heere present to see my just punishment to beare wittnes that I confesse to the glorie of God and the beatinge downe the pride of myne owne flesh that I am a most wretched synner, that the number of my synnes are more then the haire of my hedd, that I have bestowed my youth in wantonnes, the lustes of the fleshe and uncleennes, that I have ben puft up with pride and vanitie and love of this worldes pleasures and that notwithstandinge divers good motions inspired into me by the spiritt of God, the good which I would doe I have not donn, and the evill which I would not I have donn, for all which I humblye beseech my Saviour Christ to [be] a mediator to the æternall Matie for my pardon¹ especiallie I acknowledge this great synne, this bloodie synne, this infectious synne against Godes ordinannce wherein I have offended God my Sovereigne and the world. I beseech God to forgive it us all, and to forgive it me the most wretched of all; and I beseech her Matie to forgive it me, I beseech all men to forgive me; especiallie I crave pardon of those lordes and gentlemen that for Love of me have fallen into this acte, and are like to tast

¹ 'Do not as my lord Essex did; take heed of a preacher, for by his perswasion he confessed, and made himself guilty.'
—Raleigh to Essex; see vol. i. p. 54, and p. 56.

of the same punishment. I intreat that all men would have a charitable opinion of me, whoe never I protest to God intended violence or harme to her Mat^{ty} person or dignitie. I hartilie forgive all the world, and so desire all men to forgive mee. I pray God give her Ma^{ty} a religious and wise hart, a longe raigne (yf it bee his will) and a prosperous. I beseech God to blesse her, the Nobles, the Ministers of the Church and the people. And I desyre you all to marke my protestacion that I never was I thancke God atheist, to denie God or the Scriptures, or to hould anie heresie against the Godhedd, nor papist to ascribe anie thinge to myne owne woorkes, but I hope onlie to bee saved by the mercies of God in the merrittes of Christ Jesus, my onlie Saviour; and so forward I beleeeve all the articles of that religion and faith in which I was baptised, in which I was brought up, wherein I hope to continue to my last gaspe. I was never (I take God to wittness) in my hart guiltie of anie hipocrisie in religion but I knowe my self subiect to all the frailties and imperfeccions of the fleshe. I am a most imperfect creature. Then he paused a little and said, I desire y^r Lordships and you my Christian brethren to joine y^r spirites with mine, for nowe will I give my self in prayer to God which I will performe on my knees, so that all of you may heare that it will please God to give me an humble hart, and to assist mee in this greatest temptation of my death, for I am not able to endure without his speciall grace, this last conflict. Heere the ministers putt him in mynde to saye his Creed which he didd (havige first thancked them for remembringe him as they had donn once before) for said hee, Satan is most busie nowe. At the ende of

his Creed he added Lord Jesu receave my spiritt thus givinge awaie his hatt out of his hand and puttinge of his gowne and Ruffe band he kneeled downe in the strawe which [had been] strowed before ye blocke for that purpose usinge these woordes, Heere Lord I submitt my self in obedience and humillitie to thy comannement in obedience to thy ordinannce, to thy will O God I submitt my self, to my deserved punishment, and then with his handes lifted up before him, and joyned, his eyes most earnestlie fixed in Heaven whence they never removed he begann his prayer in this manner, O God creator of all thinges, and Judge of all men, that hast taught me by warrant out of thy word that Satan is then most busie when our end is neerest, and that beinge resisted he will flee, I humblie beseech thee to assist mee in this my last combatt. O Lord I acknowledge that through myne owne ignorance and dullness I cannot offer upp my prayers as I ought but I desire to doe it, and thou (O God), wilt take that for the acte. I desire O Lord God that thowe wiltt give me power to pray not with tonge and understandinge onlie but with faith, with zeale and with confidence. O Lord I beseech the to lift upp my hart from all worldlie thoughtes and lett thy mercies in Christ Jesus bee the onlie object of the eye of my minde perfect by thy grace what thou seest in my fleshe to be fraile and weake. Give mee patience and strenght to endure this last Judgment inflicted upon mee by so honorable a triall. Graunt that my flesh may not tremble or shewe resistance at the strooke of death. Let thy spiritt seale up my soule in thassurance of thy mercies and lift it up above all earthly cogitacions that in this dissolution of myne I maye have thee

onlie before mine ieis, even to the last breath. Thus he concluded with the Lordes prayer in pronouncing whereof all the assemblie joined with him in tonge and voice, as before they had don in hart, all (I thincke) present shedding abundant of teares, casting out loud sobs, with almost exclamacions, in utteringe the petition of forgiveness of synnes, he spake with great vehemencie 'forgive us our trespasses in Christ Jesus': his prayer ended he asked for the executioner whoe kneeling downe asked him forgiveness. Therle said thou art wellcom; God forgive thee, thou art the mynister of Justice; then hee desired him to tell him howe he should fitt himself for ye blocke for he knewe not. And then the executioner directed him to pull of his doublett and fallinge band; under his doublett he had a redd wascote imbrodered before with a border of gold: thus bowinge downe himself he said, I prostrate my self heere before thee O Lord God, beseechinge you that thy blessed anngeles may be reddie to receave my soule upp into heaven as soone as it is departed from my bodie. And I pray you all here present to ioine with my spiritt when my armes are stretched out, for he said [he] would onlie stretch them out when the executioner should do his office. Hee was willed heer by one of ye Doctors to say the begynninge of the 51 psalme. Have mercie uppon mee O God, etc. Wheereof when he had said ij verses the executioner beinge reddie he was called uppon to saye Lord into thy handes I committ my spiritt. Thus layinge his hedd on the blocke, and his boddie att full lenth, his armes stretched out without muffell hee patientlie received the stroake of the executioner, whoe performed his office ill, havinge an ordinarie axe wherewith he

strake 3 blowes. Howbeit neither bodie, armes nor hedd ever stirred after the ffirst.

The execucioner tooke up his hedd and [said]

God save the Queene.

All the tyme of his beinge on the scaffold the Erle never uttered worldlie thought, takinge no notice or leave of anie person more than other.

SIC ITUR AD ASTRA.¹

¹ These words are roughly erased in the original, in ink which is not the same as that in which the words are written, but is ancient.

CAPTAIN LEE, 1600

CAPTAIN LEE, 1600

(*STATE TRIALS*, Vol. I. p. 1403)

CAPTAIN THOMAS LEE was tried for attempting to rescue Essex after his condemnation and to force an entrance into the Queen's presence. No date except that of the year, 1600, (O.S.) is given in the account of the trial. The following report is said by Howell from 'an authentic ms. lent the Editor'; it appears to be the same as one in the Helmingham ms., except for a few immaterial sentences at the beginning, and that the spelling is modernised.

THOMAS LEE seems to have come to Ireland as an undertaker, in the time of the first Earl of Essex, some time before 1576. His life there was chiefly spent in the difficult and ill-rewarded task of maintaining English influence. He seems always to have been a capable and successful soldier; and though he was continually on friendly terms with Tyrone, and was occasionally imprisoned by the Government, there seems no reason to suspect him of more disloyalty to his own side than was inevitable under the circumstances.

THE INDICTMENT.

‘That he plotted and compassed to raise Sedition and Rebellion to the queen’s majesty’s person, to deprive her of her crown and dignity, take away her life, commit her people to slaughter, alter the form of Government and Religion ; and upon this wicked resolution, on the 12th day of February 1600, in the afternoon about the hours of four and five, he the said captain Lee repaired to the chamber of one sir Robert Crosse, (Crofts) knt. in the parish of St. Giles in the Fields, of purpose to discover his plot to him, and to persuade the said sir Robert Crosse to consent to join with him ; namely to go to the royal palace of our sovereign lady, being then at Westminster, and then and there to lay violent hands on her sacred person, and to take her prisoner ; thinking by that means to set at liberty the earls of Essex and Southampton, and other Traitors now in prison. But the said sir Robert Crosse not consenting to that traitorous practice ; this Thomas Lee himself repaired to the royal palace between the hours of 8 and 9 in the same night, and pressed into the presence, even to the Privy-chamber door, with purpose to have taken the person of our said sovereign lady, and performed his other traitorous designs. But there in that manner was apprehended and examined, and so committed to prison.’

To this being asked, whether he were Guilty, or not? He answered, Not Guilty in manner and form as there set down. And by whom he would be tried? Said, by God and the country, if he might see his Jury. He said farther, (protesting he was not Guilty

of any ill intent) that my Lord Admiral had long sought his life, and now he was like to have it.

The Jury called, he took exception to one, saying, he liked not his face ; but urged to shew other reasons, he challenged him peremptorily. But that, the Judge told him, could not be allowed in that case.

CAPT. LEE—Then I am contented ; proceed as you will.

My LORD CHIEF-Justice, at the end of the calling and impannelling, advertised the Jury what Treason was ; namely, to intend to lay violent hands upon her Majesty, or to take away her life ; to raise Rebellion even the intent was Treason, if it could be discovered by any overt act.

ATTORNEY-GENERAL—That he would prove him that stood at the bar, guilty of many foul Treasons.

LEE—Nay for all your wit and learning, you shall never do that. I care not what you can say. I have lost a great deal of blood in her Majesty's service, and done good service in Ireland.

ATTORNEY-GENERAL—That we shall see anon ; and proceeded upon the Indictment : where he shewed how, in the late Rebellion of that Arch-traitor Essex. For, said he, all the nobility draw their honour and dignity of the Queen, as the Stars take the light from the Sun ; and so when they enter into any rebellions and traitorous practices against her majesty, they deprive themselves of the light, as it were, of that glory and honour which before-time they received from her, the chief and fountain of all their light : and so he doubted not to call those persons traitors, who, whilst they stood, were noblemen ; and now, failing of their allegiance, lost their titles. In the late Rebellion of this Traitor Essex, this Lee came *flagrante crimine*,

and offered his service to the Lord Admiral, and Mr. Secretary, as he pretended, to kill the earl, which he said he could do, as being well acquainted, and loved of the earl :¹ but they refusing, he would needs have offered so much to the queen's majesty ; but with what mind, his practice will discover.

LEE—It is true, I would have been the first man should have gone against him whilst I thought him a traitor, and so would have adventured against any, to have defended the queen.

ATTORNEY-GENERAL—How you meant it, that will be plain anon. After this, he came to sir Henry Nevil, a gentleman of noble blood, and uttered his mind to him concerning the practice in the Indictment ; and after that came to sir Robert Cross, as you shall hear, and opened his vile purpose at large to persuade him. That these worthy men deserving all honour for their loyalty, refused, and refused, and revealed his vile plot in good time. And thus much he had confessed under his hand.

LEE—What I have set my hand to, I cannot tell ; but I am sure I had never such intent as you would persuade the jury I had.

ATTORNEY-GENERAL—That is to be proved by sir Robert Crosse, what you meant when you went about to persuade him.

LEE—I persuaded him not ; and he will not say so.

ATTORNEY-GENERAL—Well ; he shall speak it before your face.

Then SIR ROBERT CROSSE was sworn, and set in sight of the prisoner ; and began to tell ; That upon Thursday about 5 at night capt. Lee came to his

¹ See *ante*, pp. 73, 74.

lodging, he being ready to go abroad, and told him, he should not go out, yet he must speak with him ; and so taking him aside, he spoke to him of these matters of Treason, and said, that half a dozen resolute men, etc.

LEE here interrupted him, saying : Nay, good Robin Cross, speak all the truth.

MR. ATTORNEY willed Lee to give him leave to speak upon his oath.

LEE replied, I would nothing but put him in mind of the circumstance ; and said, Good Robin, remember how I began.

SIR ROBERT said he would. Thus then you spake to me :—I marvel what will become of these matters ; a man might do a brave act to set those lords at liberty. Why how ? quoth I, Marry sir Walter Rawleigh might get him eternal honour and love more than ever he can otherwise if he would procure her majesty's warrant to free them, which he might compass by undertaking her person. I answered, you may be sure he will not do it. Then Lee replied, If half a dozen resolute men, such as might have access to the presence, would step unto the queen, and kneel before her, and never rise till she had signed a warrant, and then send it by the Lord Admiral, and never stir till the earls of Essex and Southampton were brought to the queen's presence, they might do it. And then he named sir Henry Nevil, sir Jarvis Clifton, sir George Gifford, sir R. Weston and themselves. I objected how if some should offer to come upon us, and remove us from her majesty. He answered, we might keep any body out by shutting the door, and telling them that offered to come in, that if any harm came to the queen, if she should do otherwise than

well, be it at their peril ; and this was all. To which sir Robert answered, he would sleep upon it.

LEE—But I did persuade you, sir Robert, with protestation, saying, I never meant to be an actor myself, or persuade any other to it. And what a wretch am I, to be thought a villain for that I never meant? For my lord Essex, indeed, I loved and honoured him, so long as I thought him an honest man and a good-subject. I spake these words with an *if*; *if* such a thing could be done.

ATTORNEY-GENERAL—Why pressed you to the Privy-chamber door at such a time, where you were not wont to come?

And then was shewed the Examination of WILLIAM POYNES, (who was himself in the Fleet) to this purpose: That he saw capt. Lee press towards the Privy-chamber door, and stand very near, and mistrusting the worst, drew towards him. When he came near, he marked his colour, that was pale, his countenance stern, and his face having great drops of sweat standing on it. When he came near to him, capt. Lee lean'd hard upon him, and said, It was one of the wonders of God that I was not in this action with the earl of Essex. Why? said Mr. Poynes. I was so well acquainted, and so much with my lord of Essex, answered he. Then they paused. And capt. Lee asked, Whether the queen were at supper? Mr. Poynes answered, No.

ATTORNEY-GENERAL—Mark, all the rest was but to bring in this.

Mr. Poynes told Lee farther, perhaps he might do good service, if he were so well acquainted with the earl, it was likely he knew somewhat of the Plot. Not I, answered Lee; but you shall hear more villanies and knaveries yet.

ATTORNEY-GENERAL—Mark, what meant he by that speech?

To this capt. Lee could not deny but he spake it ; but said, how was I there? had I any company? had I any dagger or any thing about me, that might shew I meant to do the queen any harm? No, I had not, neither did I mean any such thing ; and for my being at the Privy-chamber door, I had been there 500 times, and never was noted. And what reason had I for my lord of Essex, to adventure any such thing? I have spent my blood in her majesty's service, and so would again.

ATTORNEY-GENERAL—You mark, there was love between him and the traitor Essex. And then Mr. Attorney caused a Letter to be read, which was written in the behalf of Lee to the now deputy by the earl of Essex : 'That he knew it was for one in place to do what he would ; and farther, What an unreasonable thing it was for any to require that at his friends hands, that were out of time. He desired his lordship to take notice of the bearer capt. Lee, one near allied to him, and that suffered for him ; one that did as good service as any, when himself was in Ireland, and one that was as well seated for service as any ; thus, whatsoever he did for the bearer, he would acknowledge as for himself : and so he concluded.'

Then likewise was read the Confession of capt. Lee to this purpose, That he loved and honoured the earl of Essex as much as any man in England, saving Sir Henry Lee.

ATTORNEY-GENERAL—This being but the prologue to an ensuing tragedy, he would give a taste of the practices and treasons of the earl of Essex, and his complices.

LEE—He doubted the treason would light on some of them that held the earl a traitor.

Whereat a confused noise there was, That he was a villain to defend a Traitor.

MR. ATTORNEY proceeded to shew the queen's great grace in sending to him the said earl, and the contempt and indignities offered to those honourable persons and counsellors sent to call him to his allegiance.

THE LORD CHIEF-JUSTICE¹ spake to this point, confirming of his own knowledge what the Attorney said, much after the manner it was delivered at the earl's Arraignment. The Attorney, continued he, would of his own knowledge affirm that all the associates and complices of the earl in this practice, were of these three sorts: either Atheists, Papists, or men of broken estates: for he had looked into them all particularly. Then named he Sir Christ. Blunt and sir John Davis, known Papists: Catesby and Tresham likewise; the last of which he said was a stock, that was *genere minax Dei*, and was he that abused the Lord-keeper in Essex house; Salisbury also he named to be a notable villain, and these seven years together laid out for by the Lord Chief-Justice, and so of the rest he said he could speak.

MR. ATTORNEY—Besides, in Ireland, it is plain to be proved, how he held intelligence with Seminaries and Priests, entertaining them to deal with the king of Spain and the pope, to make himself king of England.

LEE—Who! my lord of Essex deal with Seminaries and Priests? nay, it is well known he too much

¹ Sir John Popham. See *ante*, vol. i. p. 10.

disliked those Pater-noster fellows to call them to a reckoning in any such matter.

MR. ATTORNEY said further, It is well known that the earl of Essex used this capt. Lee as a messenger to Tyrone; and Tyrone made him his bedfellow, and capt. Lee brought a message back to the earl of Essex, as he had confessed. Then there was some mention of a Letter between them; but I could not well hear what. Then was read capt. Lee's confession to that point, how sir Christ. Blunt, being marshal, sent him to Tyrone, and when he came, he found him very peremptory, using insolent speeches, and condemning our nation as a base people, and said the earl of Essex was sent to kill him, but he should not compass it; any of his slaves might easily kill the earl, but he would not take the life of any. And further, if he would (meaning the earl of Essex) follow his Plot, he would make him the greatest in England. Capt. Lee had them read out all; they left out much matter that should be known.

MR. ATTORNEY would not have any further thing read, and pressed further, the circumstances that Lee had confessed, that made him think the earl of Essex know of his going; namely, for that the marshal was well known not to do such things, of far less consequence, without the earl's privity and consent. Again, the earl of Essex made a private sudden journey to the then house of the said Lee, where the said sir Christ. Blunt lay sick, and within a day after, sir Christopher sent him to Tyrone.

To these Confessions read, capt. Lee answered nothing, as not belonging to the matter of his Indictment.

MR. ATTORNEY urged, That it was very likely that

this man had been made acquainted with these late practices ; which Lee with protestation denied.

MR. ATTORNEY—Nay, it could not be but he must have an ill meaning, that he should offer, as he did, to kill the earl of Essex, *flagrante crimine*, in that sort, and after enter into this plot and practice. Mark, said the Attorney, he said they might ‘force’ her majesty to do it ; mark this word ‘force,’ (which, as I remember, was in some part of his own Confession) ‘Go in unto her, and never leave her till she had done it.’

LEE—Why, I did say, with an If ; and then I am not a fool, but I know they must have been of a resolution that should have undertaken such a thing, and such as would not fear to displease her majesty for half an hour, to please her all her life after ; but I never meant to have been an actor myself.

The Court affirmed it was Treason to undertake to ‘force’ her majesty to do any thing against her will.

CAPTAIN LEE—I never undertook it.

MR. ATTORNEY urged his words to sir Robert Mansfield riding in his coach after he was apprehended, that shewed himself guilty, and so willed sir Robert should be sworn.

SIR ROBERT MANSFIELD affirmed, That capt. Lee should say, that he had humbly sued to her majesty this twelvemonth, that he might be employed in some service, wherein he might have some throats cut ; and now he thought he had done somewhat to bring him to his end.—Capt. Lee seemed to take some exceptions against sir Robert Mansfield.

SIR ROBERT protested he would neither wrong him, nor any man ; and but for this cause, he had no reason to think otherwise than well of capt. Lee.

CAPTAIN LEE confessed he had lived in misery, and cared not to live, his enemies were so many and so great.

MR. ATTORNEY urged her majesty's pardon to him heretofore; for he said, he was a man many ways having passed the danger of the law, being full of cruelty and blood.

CAPTAIN LEE answered, it was the worst thing her majesty did for him, to pardon him.

MR. ATTORNEY—Hark, how ungrateful he is!

CAPTAIN LEE—Nay, I humbly thank her majesty for that her grace; but it had been better for me I had died then. I have lost a great deal of blood since, and now am like to end worse: and for that it is said I am a bloody man and cruel; I protest I have been in her majesty's service forward, and indeed in fair fight I would do the worst against her majesty's enemies: but when they submitted to my mercy, I ever used them but as became a soldier and a gentleman, as merciful as any.

My lord of London told him, he knew it was a common thing in Ireland, they would not believe a man was dead till his head were off; and so you would not have any body persuaded that you were a traitor, unless her majesty (God bless her) were dead.

LEE—No, my lord, I never meant any such thing. You know, my lord, it was ever my fault to be loose and lavish of my tongue; and that was my fault now, and I am like to pay for it.

Then the Jury were put together, who quickly found him Guilty.

Upon verdict given, Mr. Attorney said, Now capt. Lee, you may do well to confess this matter, what you know, and who set you on.

CAPTAIN LEE—What? I am not a fool to be set on like a dog upon a bear ; nobody set me on, for I endeavoured nothing.

MR. RECORDER, with a very grave admonition to him, to make him see his fault and fly to God's mercy for pardon, pronounced Judgment ; which he took patiently.

They asked him, what he had to say : he answered, nothing ; but desired my lord of London, that he might have one sent to him, fit for a man in his case.

LORD OF LONDON—What? you would not have a jesuit or a priest?

CAPTAIN LEE—No, I am a Protestant : I never liked those Paternoster fellows ; but I desire a minister, and to receive the Sacrament : and further I desire, my lord chief-justice, that my son may have no wrong, and that he may have that little that he had got together, and should leave behind him ; for it was his by right, and his son might prove an honest man, and do his country good service one day.

LORD CHIEF-JUSTICE—He should have his right ; nobody should be wronged.—So the Court broke up : Captain Lee still protesting he never intended any such thing against the queen as was laid to his charge ; which he continued to affirm afterwards to Mr. Pasfield, to whom he confessed his other sins very freely, even taking his death upon it. He died the next day at Tyburn very Christianly, confessing his other vices, but still denying this.

JOHN PERRY, 1660



JOHN PERRY, 1660

(14, *STATE TRIALS*, p. 1312)

(*HARLEIAN MS.*, Vol. III. p. 547)

A TRUE and Perfect Account of the Examination, Confession, Trial, Condemnation, and Execution of Joan Perry, and her two Sons, John and Richard Perry, for the supposed Murder of William Harrison, Gent.

Being one of the most remarkable occurrences which hath happened in the memory of man, sent in a letter (by Sir T. O.,¹ Burton, in the county of Gloucester, knight, and one of his Majesty's justices of the peace) to T. S.,² Dr.

¹ Sir Thomas Overbury, nephew of the Sir Thomas Overbury who was poisoned in the Tower in 1613, and 'a great traveller beyond the seas, and afterwards a favourer of Protestant dissenters.'

² Sir Thomas Shirley (or Sherley), the grandson of a well-known 'adventurer' of Queen Elizabeth's time, the son of a cavalier knighted at Oxford in 1645, and physician in ordinary to Charles II. A suit which he brought against Sir John Fagg, a member of the House of Commons, relating to his father's estate, which had been forfeited during the Commonwealth, led to a dispute between the two Houses of Parliament, and Shirley's temporary imprisonment.

of Physic in London. Likewise Mr. Harrison's own account how he was conveyed into Turkey, and there made a slave for about two years; and then his master which bought him there, dying, how he made his escape, and what hardships he endured, who at last (through the providence of God) returned to England, while he was supposed to be murdered; here having been his man-servant arraigned (who falsely impeached his own mother and brother as guilty of the murder of his master), they were all three arraigned, convicted, and executed on Broadway-hills in Gloucestershire.

A TRUE AND PERFECT ACCOUNT, ETC.

Upon Thursday, the 16th day of August 1660, William Harrison, steward to the Lady Viscountess Campden, at Campden in Gloucestershire, being about seventy years of age, walked from Campden aforesaid to Charringworth, about two miles from thence, to receive his lady's rent; and not returning so early as formerly, his wife (Mrs. Harrison), between eight and nine of the clock that evening, sent her servant John Perry to meet his master on the way from Charringworth. But neither Mr. Harrison, nor his servant John Perry, returning that night; the next morning early Edward Harrison (William's son) went towards Char-

ringworth to inquire after his father ; when on the way meeting Perry coming thence, and being informed by him he was not there, they went together to Ebrington, a village between Charringworth and Campden, where they were told by one Daniel that Mr. Harrison called at his house the evening before, in his return from Charringworth, but staid not. They then went to Paxford, about half a mile thence, where hearing nothing of Mr. Harrison, they returned towards Campden ; and on the way, hearing of a hat, a band, and comb, taken up in the highway (between Ebrington and Campden) by a poor woman, then leasing in the field, they sought her out, with whom they found the hat, band, and comb, which they knew to be Mr. Harrison's ; and being brought by the woman to the place where she found the same (in the highway, between Ebrington and Campden, near unto a great furze-brake) they there searched for Mr. Harrison, supposing he had been murdered, the hat and comb being hackt and cut, and the band bloody, but nothing more could be there found. The news hereof coming to Campden so alarmed the town, that men, women, and children hasted thence in multitudes to search for Mr. Harrison's supposed dead body, but all in vain.

Mrs. Harrison's fears for her husband being great were now much increased, and having

sent her servant Perry (the evening before) to meet his master, and he not returning that night caused a suspicion that he had robbed and murdered him ; and thereupon the said Perry was the next day brought before a justice of peace, by whom being examined concerning his master's absence and his own, staying out the night he went to meet him, gave this account of himself: That his mistress sending him to meet his master between eight and nine of the clock in the evening, he went down Campden-field, towards Charringworth, about a land's length, where meeting one William Read of Campden, he acquainted him with his errand, and further told him, that it growing dark, he was afraid to go forward, and would therefore return and fetch his young master's horse, and return with him he did to Mr. Harrison's court gate, where they parted, and he staid still ; one Pearce coming by, he went again with him about a bow's shoot into the fields, and returned with him likewise to his master's gate where they also parted ; and then he, the said John Perry, saith he went into his master's hen-roost where he lay about an hour, but slept not ; and when the clock struck twelve, rose and went towards Charringworth, till (a great mist rising) he lost his way, and so lay the rest of the night under a hedge ; and at daybreak on Friday morning went to Charringworth, where he inquired for his master

of one Edward Plaisterer, who told him he had been with him the afternoon before, and received three-and-twenty pounds of him, but staid not long with him. He then went to William Courtis of the same town, who likewise told him, he heard his master was at his house the day before, but being not at home did not see him : After which, he saith, he returned homewards (it being about five of the clock in the morning), when on the way he met his master's son, with whom he went to Ebrington and Paxford, etc., as hath been related.

Read, Pearce, Plaisterer, and Curtis being examined, affirmed what Perry had said concerning them to be true.

Perry being then asked by the justice of peace how he, who was afraid to go to Charringworth at nine of the clock, became so bold as to go thither at twelve? Answered, that at nine of the clock it was dark, but at twelve the moon shone.

Being further asked why returning twice home, after his mistress had sent him to meet his master, and staying till twelve of the clock, he went not into the house to know whether his master were come home, before he went a third time at that time of night to look after him; answered, that he knew his master was not come home, because he saw light in his chamber-window, which never used to be there so late when he was at home.

Yet notwithstanding this, that Perry had said for his staying forth that night, it was not thought fit to discharge him till further inquiry were made after Mr. Harrison, and accordingly he continued in custody at Campden, sometimes in an inn there, and sometimes in the common prison, from Saturday, August 18th, unto the Friday following; during which time he was again examined at Campden by the aforesaid justice of peace, but confessed nothing more than before; nor at that time could any further discovery be made what was become of Mr. Harrison; but it hath been said, that during his restraint at Campden, he told some (who pressed him to confess what he knew concerning his master) that a tinker had killed him; and to others, he said, a gentleman's servant of the neighbourhood had robbed and murdered him: and others again, he told, that he was murdered, and hid in a beanrick in Campden, where search was (in vain) made for him. At length he gave out, that were he again carried before the justice, he would discover that to him he would not discover to nobody else; and thereupon he was (Friday, August 24th) again brought before the justice of peace, who first examined him, and asking him whether he would yet confess what was become of his master; he answered, he was murdered, but not by him: the justice of peace then telling him, that if he

knew him to be murdered, he knew likewise by whom he was ; so he acknowledged he did ; and being urged to confess what he knew concerning it, affirmed that it was his mother and his brother that had murdered his master. The justice of peace then advised him to consider what he said, telling him that he feared he might be guilty of his master's death, and that he should not draw more innocent blood upon his head ; for what he now charged his mother and brother with might cost them their lives ; but he affirming he spoke nothing but the truth, and that if he were immediately to die, he would justify it ; the justice desired him to declare how and when they did it.

He then told him that his mother and his brother had lain at him ever since he came into his master's service, to help them to money, telling him how poor they were, and that it was in his power to relieve them, by giving them notice when his master went to receive his lady's rents, for they would then way-lay and rob him ; and further said, that upon the Thursday morning his master went to Charringworth, going of an errant into the town, he met his brother in the street, whom he then told whither his master was going, and if he waylaid him, he might have his money : and further said, that in the evening his mistress sent him to meet his master, he met his brother in the street,

before his master's gate, going (as he said) to meet his master, and so they went together to the churchyard, about a stone's throw from Mr. Harrison's gate, where they parted, he going the footway across the churchyard, and his brother keeping the great road, round the church, but in the highway beyond the church met again, and so went together, the way leading to Charringworth, till they came to a gate about a bow's shoot from Campden Church, that goes into a ground of the lady Campden's called the Conygree (which, to those who have a key to go through the garden, is the next way from that place to Mr. Harrison's house). When they came near unto that gate, he, the said John Perry, saith he told his brother, he did believe his master was just gone into the Conygree (for it was then so dark they could not discern any man, so as to know him), but perceiving one to go into that ground, and knowing there was no way (but for those who had a key) through the gardens, concluded it was his master; and so told his brother if he followed him, he might have his money, and he in the meantime would walk a turn in the fields, which accordingly he did; and then following his brother about the middle of the Conygree, found his master on the ground, his brother upon him, and his mother standing by; and being asked whether his master were then dead, answered no; for

that after he came to them, his master cried, Ah, rogues, will you kill me: at which, he told his brother, he hoped he would not kill his master; who replied, Peace, peace, you are a fool and so strangled him; which having done, he took a bag of money out of his pocket, and threw it into his mother's lap; and then he and his brother carried his master's dead body into the garden adjoining to the Conygree, where they consulted what to do with it; and at length agreed to throw it into the great sink, by Wallington's mill behind the garden; but said, his mother and brother bade him go up to the Court (next the house) to hearken whether any one was stirring, and they would throw the body into the sink: and being asked whether it were there, he said, he knew not, for that he left it in the garden; but his mother and brother said they would throw it there: and if it were not there, he knew not where it was, for that he returned no more to them, but went into the courtgate which goes into the town, where he met with John Pearce with whom he went into the field, and again returned with him to his master's gate; after which he went into the hen-roost, where he laid till twelve of the clock that night, but slept not; and having (when he came from his mother and brother) brought with him his master's hat, band and comb, which he laid in the hen-roost; he carried the said hat,

band and comb, and threw them (after he had given them three or four cuts with his knife) in the highway, where they were after found; and being asked, what he intended by so doing? said, he did it, that it might be believed his master had been there robbed and murdered; and having thus disposed of his hat, band, and comb, he went towards Charringworth, etc., as hath been related.

Upon this confession and accusation, the justice of peace gave order for the apprehending of Joan and Richard Perry, the mother and brother of John Perry, and for searching the sink where Mr. Harrison's body was said to be thrown, which was accordingly done, but nothing of him could be there found: the fish pools likewise (in Campden) were drawn and searched, but nothing could be there found neither; so that some were of opinion, the body might be hid in the ruins of Campden-house, burnt in the late wars, and not unfit for such a concealment, where was likewise search made, but all in vain.

Saturday, August 25th, Joan and Richard Perry, together with John Perry, were brought before the justice of peace, who acquainting the said Joan and Richard with what John had laid to their charge, they denied all, with many imprecations on themselves, if they were in the least guilty of anything of which they were accused: but John on the other side, affirmed

(to their faces) that he had spoken nothing but the truth, and that they had murdered his master; further telling them, that he could never be at quiet for them, since he come into his master's service, being continually followed by them, to help them to money, which they told him, he might do by giving them notice when his master went to receive his lady's rents; and that he meeting his brother Richard in Campden town, the Thursday morning his master went to Charringworth, told him whither he was going, and upon what errand; Richard confessed he met his brother that morning, and spoke with him, but nothing passed between them to that purpose, and both he and his mother told John he was a villain to accuse them wrongfully, as he had done: but John on the other side affirmed that he had spoken nothing but the truth, and would justify it to his death.

One remarkable circumstance happened in these prisoners' return from the justice of peace his house to Campden, viz., Richard Perry (following a good distance behind his brother John) pulling a clout out of his pocket, dropped a ball of inkle; which one of his guard taking up, he desired him to restore, saying, it was only his wife's hair lace; but the party opening of it, and finding a slip knot at the end, went and shewed it unto John, who was then a good distance before, and knew nothing of the dropping and

taking up of this inkle ; but being shewed it, and asked whether he knew it, shook his head, and said, yea, to his sorrow ; for that was the string his brother strangled his master with. This was sworn upon the evidence at their trial.

The morrow being the Lord's day they remained at Campden, where the minister of the place designing to speak to them (if possible to persuade them to repentance, and the farther confession) they were brought to church ; and in their way thither, passing by Richard's house, two of his children meeting him, he took the lesser in his arm, leading the other in his hand ; when on a sudden, both their noses fell ableeding, which was looked upon as ominous.

Here it will be no impertinent digression to tell how the year before Mr. Harrison had his house broken open between eleven and twelve o'clock at noon, upon Campden market-day, whilst himself and his whole family were at the lecture ; a ladder being set up to a window of the second storey, and an iron bar wrenched thence with a plough-share, which was left in the room, and £140 in money carried away, the authors of which robbery could never be found.

After this, and not many weeks before Mr. Harrison's absence, his servant Perry, one evening, in Campden garden, made an hideous outcry, whereat, some who heard it, coming in, met him running, and seemingly frightened, with a sheep

pick in his hand, to whom he told a formal story, how he had been set upon by two men in white, with naked swords, and how he defended himself with his sheep pick ; the handle whereof was cut in two or three places, and likewise a key in his pocket which he said, was done with one of their swords.

These passages the justice of peace having before heard, and calling to mind, upon Perry's confession, asked him first concerning the robbery, when his master lost £140 out of his house at noon-day ; whether he knew who did it ? who answered, yes, it was his brother : And being further asked, whether he were then with him, he answered, No, he was then at Church ; but that he gave him notice of the money, and told him in which room it was, and where he might have a ladder that would reach the window ; and that his brother after told him he had the money, and had buried it in his garden, and that they were at Michaelmas next to have divided it. Whereupon search was made in the garden ; but no money could be there found.

And being further asked concerning that other passage of his being assaulted in the garden ; he confessed it was all a fiction, and that having a design to rob his master, he did it, that rogues being believed to haunt the place, when his master was robbed, they might be thought to have done it.

At the next assizes, which were held in September following, John, Joan, and Richard Perry had two indictments found against them; one for breaking into William Harrison's house, and robbing him of £140 in the year 1659. The other for robbing and murdering of the said William Harrison, the 16th day of August 1660. Upon the last indictment, the then judge of assizes (Sir Christopher Turner,¹) would not try them because the body was not found;² but they were then tried upon the other indictment for robbery, to which they pleaded Not Guilty; but some whispering behind them, they soon after pleaded Guilty, humbly begging the benefit of his Majesty's gracious pardon, and act of oblivion,³ which was granted them.

¹ Sir Christopher Turner (1607-1675) was educated at Emmanuel College, Cambridge, and called in 1633. He was made a judge, and knighted at the Restoration. This trial occurred on his first circuit.

² 'I would never convict any person of murder or manslaughter unless the fact were proved to be done, or at least the body found dead, for the sake of two cases, one mentioned in my Lord Coke's *Pleas of the Crown*, cap. 104, p. 232, a Warwickshire case,' and another from Staffordshire. Hale's *History of the Pleas of the Crown*, vol. ii. p. 290. Hale died in 1676, and his *History* was published after his death.

³ This is the Act of Oblivion (12 Car. 2, c. 11), passed at the time of the Restoration, as to which, see vol. i. p. 123. Its effect, as far as the present case is concerned, was that all offences committed before 24th June 1660, except murders committed at any time, and theft and other felonies committed before 4th March 1659, which, according to the Old Style, was

But though they pleaded guilty to this indictment, being thereunto prompted (as is probable) by some who were unwilling to lose time, and trouble the court with their trial, in regards the act of oblivion pardoned them; yet they all, afterwards, and at their deaths, denied that they were guilty of that robbery, or that they knew who did it.

Yet at this assize, as several credible persons have affirmed, John Perry still persisted in his story, that his mother and brother had murdered his master; and further added, that they had attempted to poison him in the jail, so that he durst neither eat nor drink with them.

At the next assizes, which were the spring following, John, Joan, and Richard Perry were by the then judge of assize (Sir Robert Hyde¹) tried upon the indictment of murder, and pleaded thereunto, severally Not Guilty; and when John's confession, before the justice, was proved, *vivâ voce*, by several witnesses who heard the same, he told them, he was then mad, and knew not what he said.

The other two, Richard and Joan Perry, said

the March immediately before the prisoners were first tried, were pardoned. It was a curious Act, and it is curious that the Restoration should have made any difference to the proceedings in this trial. It was, however, all one in the end, as far as the prisoners were concerned.

¹ See *ante*, vol. i. p. 126.

they were wholly innocent of what they were accused, and that they knew nothing of Mr. Harrison's death, nor what was become of him ; and Richard said, that his brother had accused others as well as him, to have murdered his master ; which the judge bidding him prove he said, that most of those that had given evidence against him, knew it ; but naming none, not any one spoke to it, and so the jury found them all three guilty.

Some few days after, being brought to the place of their execution, which was on Broad-way-hill, in sight of Campden, the mother (being reputed a witch, and to have so bewitched her sons they could confess nothing while she lived) was first executed : after which Richard being upon the ladder, professed as he had done all along, that he was wholly innocent of the fact for which he was then to die ; and that he knew nothing of Mr. Harrison's death, nor what was become of him ; and did with great earnestness beg and beseech his brother (for the satisfaction of the whole world, and his own conscience,) to declare what he knew concerning him ; but he with a dogged and surly carriage told the people he was not obliged to confess to them ; yet immediately before his death said, he knew nothing of his master's death, nor what was become of him, but they might hereafter, possibly, hear.

Some years afterwards Mr. Harrison returned home, and gave the following account of what had befallen him, in a letter addressed to Sir Thomas Overbury, knight of Bourton (not far from Campden) in Gloucestershire.

For Sir Thomas Overbury, knight.

HONOURED SIR ; In obedience to your commands, I give you this true account of my being carried away beyond the seas, my continuance there, and return home. On a Thursday in the afternoon, in the time of harvest, I went to Charringworth to demand rents, due to my lady Campden ; at which time the tenants were busy in the fields, and late ere they came home, which occasioned my stay there till the close of the evening. I expected a considerable sum, but received only three and twenty pounds, and no more. In my return home (in the narrow passage, amongst Ebrington-furzes) there met me one horseman, and said, ' Art thou there ' : and I fearing that he would have rid me over, struck his horse over the nose ; whereupon he struck at me with his sword, several blows, and run it into my side ; while I (with my little cane) made my defence as well as I could ; at last another came behind me, run me into the thigh, laid hold on the collar of my doublet, and drew me to a hedge, near to the place ; then came in another : they did not take my money, but mounted me behind one of them, drew my arms about his middle, and fastened my wrists together with something that had a spring lock to it as I conceived, by hearing it give a snap as they put it on ; then they threw a great cloak over me, and carried me away ; in the night they

alighted at a hay-rick which stood near unto a stone-pit by a wall side, where they took away my money ; about two hours before day (as I heard one of them tell the other he thought it to be then) they tumbled me into the stone-pit ; they staid (as I thought) about an hour at the hay-rick, when they took horse again, one of them bad me come out of the pit, I answered, they had my money already ; and asked what they would do with me, whereupon he struck me again, drew me out, and put a great quantity of money into my pockets, and mounted me again after the same manner ; and on the Friday, about sun setting, they brought me to a lone house upon a heath (by a thicket of bushes) where they took me down almost dead, being sorely bruised with the carriage of the money : when the woman of the house saw that I could neither stand or speak, she asked them whether or no they had brought a dead man ? They answered no, but a friend that was hurt, and they carrying him to a chirurgeon ; she answered if they did not make haste their friend would be dead before they could bring him to one : there they laid me on cushions, and suffered none to come into the room but a little girl ; there we staid all night, they giving me some broth and strong-waters : in the morning, very early, they mounted me as before, and on Saturday-night they brought me to a place where were two or three houses, in one of which I lay all night on cushions, by their bed-side : on Sunday morning they carried me from thence, and about three or four o'clock they brought me to a place by the sea-side, called Deal, where they laid me down on the ground ; and one of them staying by me, the other two walked a little off, to meet a man, with whom they talked ; and in their discourse

I heard them mention seven pounds ; after which, they went away together, and about half an hour after returned. The man (whose name, as I after heard, was Wrenshaw) said, he feared I would die before he could get me on board ; then presently they put me into a boat, and carried me on ship-board, where my wounds were dressed. I remained in the ship (as near as I could reckon) about six weeks, in which time I was indifferently recovered of my wounds, and weakness. Then the master of the ship came and told me, (and the rest who were in the same condition) that he discovered three Turkish ships ; we all offered to fight in the defence of the ship and ourselves, but he commanded us to keep close, and said, he would deal with them well enough : a little while after he called us up, and when we came on the deck, we saw two Turkish ships close by us ; into one of them we were put, and placed in a dark hole, where, how long we continued before we were landed, I know not : when we were landed, they led us two days' journey, and put us into a great house, or prison, where we remained four days and a half ; and then came to us eight men to view us, who seemed to be officers ; they called us, and examined us of our trades and callings, which every one answered : one said he was a chirurgeon, another that he was a broad-cloth weaver, and I (after two or three demands) said I had some skill in physic : we three were set by, and taken by three of those eight men that came to view us : it was my chance to be chosen by a grave physician of 87 years of age, who lived near to Smirna, who had formerly been in England, and knew Crowland in Lincolnshire, which he preferred before all other places in England : he employed me to keep his

still-house, and gave me a silver bowl double gilt, to drink in ; my business was most in that place, but once he sent me to gather cotton wool, which I not doing to his mind, he struck me down to the ground, and after drew his stiletto to stab me ; but I holding up my hands to him, he gave a stamp, and turned from me, for which I render thanks to my Lord and Saviour Jesus Christ, who staid his hand, and preserved me. I was there about a year and three quarters, and then my master fell sick on a Thursday, and sent for me ; and calling me as he used, by the name of Boll, told me he should die, and bad me shift for myself : he died on Saturday following, and I presently hastened with my bowl to a port almost a day's journey distant ; the way to which place I knew, having been twice there employed by my master about the carriage of his cotton wool : when I came thither, I addressed myself to two men who came out of a ship of Hamborough, which (as they said) was bound for Portugal within three or four days ; I enquired of them for an English ship, they answered there was none ; I entreated them to take me into their ship, they answered they durst not, for fear of being discovered by the searchers, which might occasion the forfeiture, not only of their goods, but also of their lives : I was very importunate with them, but could not prevail ; they left me to wait on Providence, which at length brought another out of the same ship, to whom I made known my condition, craving his assistance for my transportation ; he made me the like answer as the former, and was as stiff in his denial, till the sight of my bowl put him to a pause : he returned to the ship and after half an hour's space, he came back again accompanied with

another seaman, and for my bowl undertook to transport me : but told me I must be contented to lie down in the keel, and endure much hardship, which I was content to do, to gain my liberty ; so they took me aboard, and placed me below in the vessel in a very uneasy place, and obscured me with boards and other things, where I lay undiscovered, notwithstanding the strict search that was made in the vessel ; my two chapmen, who had my bowl, honestly furnished me with victuals daily, until we arrived at Lisbon in Portugal ; where (as soon as the master had left the ship, and was gone into the city) they set me on shore money-less to shift for myself : I knew not what course to take, but as Providence led me I went up unto the city, and came into a fair street ; and being weary, I turned my back to a wall and leaned upon my staff : over against me were four gentlemen discoursing together, after a while one of them came to me, and spake to me in a language that I understood not : I told him I was an Englishman, and understood not what he spake ; he answered me in plain English, that he understood me, and was himself born near Wisbech in Lincolnshire. Then I related to him my sad condition, and he taking compassion on me, took me with him, provided for me lodging and diet, and by his interest with a master of a ship, bound for England, procured my passage ; and bringing me on ship-board, he bestowed wine and strong waters on me, and at his return, gave me eight stivers, and commended me to the care of the master of the ship, who landed me safe at Dover, from whence I made shift to get to London, where being furnished with necessaries, I came into the country.

Thus honoured Sir, I have given you a true account

of my great sufferings, and happy deliverance, by the mercy and goodness of God, my most Gracious Father in Jesus Christ, my Saviour and Redeemer; to whose name be ascribed all honour, praise, and glory. I conclude and rest, Your worship's in all dutiful respect,

WILLIAM HARRISON.

Letter from Sir Tho. Overbury to Dr. Shirley.

SIR; It has not been any forgetfulness in me, you have no sooner heard from me, but my unhappy distemper seizing on my right hand, soon after my coming down into the country, so that till now I have been wholly deprived the use of it. I have herewith sent you a short narrative of that no less strange than unhappy business, which some years since happened in my neighbourhood; the truth of every particular whereof I am able to attest, and I think it may very well be reckoned amongst the most remarkable occurrences of this age; you may dispose of it as you please, and in whatever else I can serve you, you may freely command me, Sir, your most affectionate kinsman and humble servant,

THOMAS OVERBURY.

BURTON, August 23, 1676.

The preceding account, published by authority, was concluded by the following observations:—

Many question the truth of this account Mr. Harrison gives of himself, and his transportation, believing he was never out of England: but there is no question of Perry's telling a formal false story to hang himself, his mother and his brother: and since

this, of which we are assured, is no less incredible than that of which we doubt; it may induce us to suspend hard thoughts of Mr. Harrison, till time, the great discoverer of truth, shall bring to light this dark and mysterious business. That Mr. Harrison was absent from his habitation, employment, and relations, near two years, is certain; and if not carried away (as he affirms) no probable reason can be given for his absence; he living plentifully and happily in the service of that honourable family, to which he had been then related above 50 years, with the reputation of a just and faithful servant; and having all his days been a man of sober life and conversation, cannot now reasonably be thought in his old age, so far to have misbehaved himself, as in such a manner voluntarily to have forsaken his wife, his children, and his stewardship, and to leave behind him (as he then did) a considerable sum of his lady's money in his house; we cannot therefore in reason or charity, but believe that Mr. Harrison was forcibly carried away; but by whom, or by whose procurement, is the question. Those whom he affirms did it, he withal affirms never before to have seen; and that he saw not his servant Perry, nor his mother, nor his brother the evening he was carried away; that he was spirited (as some are said to have been) is no ways probable, in respect he was an old and infirm man, and taken from the most inland part of the nation; and if sold, as himself apprehends he was, for £7, would not recompence the trouble and charge of his conveyance to the sea-side.

Some therefore have had hard thoughts of his eldest son, not knowing whom else to suspect; and believe the hopes of the stewardship, which he

afterwards (by the lord Campden's favour) enjoyed, might induce him to contrive his father's removal; and this they are the more confirmed in, from his misbehaviour in it, but on the other side, it is hard to think the son should be knowing of his father's transportation; and consequently, of these unhappy persons' innocency, as to the murder of him, and yet prosecute them to the death, as he did, and when condemned, should be the occasion of their being conveyed above twenty miles, to suffer near Campden, and to procure John Perry to be there hanged in chains, where he might daily see him, and himself to stand at the foot of the ladder, when they were all executed, as likewise he did.

These considerations as they make it improbable the son should be privy to his father's transportation, so they render the whole matter the more dark and mysterious, which we must therefore leave unto Him who alone knoweth all things, in His due time to reveal and bring to light.

ROBERT GREEN AND OTHERS



**ROBERT GREEN, HENRY BERRY,
AND LAWRENCE HILL, 1679.**

(7, *STATE TRIALS*, p. 159)

THE Popish Plot constitutes one of the most curious puzzles to be met with in English history; and I believe that I am correct in saying that no impartial or modern writer has ever seriously attempted to discover its origin. I am certainly not at present going to make any attempt in that direction myself. But while any explanation of that long course of chicanery and mendacity compendiously described by our forefathers of three centuries as The Plot, must take careful account of that series of trials of which the following is one, it is impossible to understand how our ancestors confidently condemned to death a small crowd of innocent men of whom Green, Berry, and Hill are humble types, without considering the influence which fear of the Plot exercised over the mind of the ordinary citizen, and without attempting to estimate the

opportunities he had for the detection of elaborately contrived perjury. An assertion that a plot existed to employ the most violent possible means to change the constitution of the country did not sound inherently improbable to a generation, the middle-aged among whom could remember the death of Charles I.; and the assertion that the plot was promoted by the Catholics in general, and the Jesuits in particular, seemed likely enough to a nation which had recently made the Exclusion Bill the touchstone of its politics. The general sense of the country perceived that the French king and the Pope were the most formidable enemies to the institutions to which the great body of Englishmen were sincerely and deeply attached; and if the subsequent discovery of the Treaty of Dover proves the correctness of half of these suspicions, that is some justification, from an historical point of view, of the other half. Under these circumstances, men who were devoted to their country and their religion, with fears for the security of both, which might be exaggerated but were certainly not unfounded, may be to some extent excused if they lost their heads on the sudden occurrence of a gross case of the worst kind of crime—the murder of an innocent man for political reasons. Every lawyer must, I should suppose, be somewhat ashamed that this panic took the form it did; but a study of the trials

in volume vii. of Howell will partially explain why this was so. While infinite ingenuity had been spent on perjury, cross-examination, as we understand it, was still unthought of. The common object of questioning a witness at this time, and for a long time afterwards, was not to contradict him, but to show that he was infamous; not to prove that he was lying, but that he was a liar. Whether this was a survival from an older system of jurisprudence I cannot say; but the chief objection to the method is that unless a liar is extraordinarily infamous, as Oates indeed became, juries will at times believe him. It is to be observed that after Oates had helped in the judicial murder of some half-a-dozen probably innocent men, another set of his victims did manage to produce direct evidence that he lied in a material particular; but the exception is striking enough to prove the rule. Consequently while I do not intend to defend in any way the verdicts of the juries in the Plot cases, or the public opinion which made them possible, I beg to assure my lay readers that I am advancing a substantial and meritorious plea for our ancestors when I say that the art of perjury had for the moment far outstripped that of cross-examination.

I will trespass for a moment more on my reader's patience to append a short list of dates. On 12th August 1678 Kirby, who, with Oates

and Tong, represents as far as we know the parentage of the Plot, revealed its main features to the king personally. Oates delivered his first set of charges to Sir E. Godfrey on 6th September. Sir Edmund's dead body was found on the 17th of October, and the general panic began. On the 28th Oates was examined by the Privy Council; on the 31st the House of Commons passed a resolution affirming the existence of the Plot, after having had Oates under examination ten days previously. During the same month of October five Catholic lords, Lords Powis, Stafford, Petre, Bellasis, and Arundell, had been arrested, besides many less conspicuous persons. On the 27th of November, Coleman, a Jesuit, Secretary to the Duchess of York, was tried for, and, chiefly on the evidence of Oates, convicted of traitorous correspondence and assistance in a plot to murder the king. He was hanged on 3rd December. On 17th December, Ireland, Pickering, and Grove were tried for being concerned in a plot to murder the king or to procure others to do so. They were convicted and hanged on 24th January. Then came the present trial on 5th February; and throughout the spring there followed a few more of less importance, but leading to the condemnation of five Jesuits in one trial and one barrister in another, both in June. All these men were hanged. Of the men I have mentioned, thirteen

in all, all were improperly convicted, some were certainly, all were possibly innocent. In July came the trial and acquittal of Wakeman, the queen's doctor, and the beginning of Oates' downfall, and after this, though the Plot contrives to discover a pretty constant supply of insignificant priests and Papist squires, its main stream dives into the obscurities, incredibilities, and obscenities of the Sham Plot and the Meal-tub Plot, of M^{rs} Cellier and Dangerfield, before its last reappearance in intelligible mendacity in December 1680, when it managed to make Lord Stafford a kind of national martyr.

ROBERT GREEN, HENRY BERRY, AND LAWRENCE HILL

ROBERT GREEN, Henry Berry, the porter at Somerset House, and Lawrence Hill, together with — Giralde and Dominick Kelly, two Irish priests, and Phillibert Vernatt, who had all escaped arrest, were indicted on the 5th of February 1679 in the King's Bench for the murder of Sir Edmund Berry Godfrey¹ on Saturday the

¹ Sir Edmund Berry Godfrey was eighth son (his father had twenty children) of Thomas Godfrey, a well-known Man of Kent. He matriculated as a commoner of Christ Church in 1638, entered Gray's Inn in 1640, but gave up the profession on account of his deafness. He became a woodmonger, and eventually owned a wharf on the site of Northumberland Avenue. He was knighted for his efforts to relieve distress during the plague, and received a silver tankard from the king. In 1669, however, he came into collision with the court on the king's physician being arrested for a debt of £30 due to him for firewood. The bailiffs were whipped and Godfrey imprisoned for six days. He moved in good society and knew Danby and Burnet. Though some thought him

12th of October 1678. The three prisoners pleaded Not Guilty, and the trial was adjourned to the 10th of February, when it took place before the Lord Chief Justice, Sir William Scroggs,¹ and Justices Wild² and Dolben.³

'vain and apt to take too much on him,' he was generally 'esteemed the best justice of the peace in England.' 'Few men,' says Burnet, 'lived on better terms with the Papists than he did.'

¹ Sir William Scroggs seems to have been born of a good family of Duddington in Oxfordshire, though it is also stated that he was the son of a one-eyed butcher near Smithfield Bars. He was educated at Pembroke and Oriel Colleges, Oxford, fought for the king in 1648, was called in 1653, and became serjeant and king's serjeant in 1669. By Danby's favour he was appointed to the bench of the Common Pleas in 1676, and superseded Rainsford as Lord Chief Justice in 1678. His name is now remembered only through his connection with the Popish Plot trials: he took an active part in promoting them, and in the earlier trials did all he could to obtain convictions. In the case, however, of Wakeman, the queen's doctor (18th July 1679), he suddenly turned round and pointed out the absurdities of the stories told by Oates and Bedloe; and an acquittal was the result. North says that this was due to his discovery that Shaftesbury, who was no doubt using the plot for his own ends, had fallen out of favour; Luttrell says he had been bribed by the Portuguese; the fact can be sufficiently accounted for by supposing that he had discovered the real sentiments of the king in the matter. In any case, he lost his old friends and made no new ones, and parliamentary proceedings against him, which were continued after one dissolution, were only put an end to by another. He had, however, meanwhile been dismissed and pensioned. He died in 1683, leaving a son and two daughters of whom one married

² See footnote, p. 138.

³ See footnote, p. 138.

There appeared for the prosecution the

Sir Robert Wright, the last Lord Chief Justice before the Revolution : a picturesque passage in Lord Campbell's life of him, dwelling on the extinction of his name and family, seems therefore to be erroneous in point of fact. Scroggs, like Jeffreys, has been made the subject of a great deal of most picturesque abuse, to which I know of no answer except to suggest that his reputation has suffered a little from the uncouthness of his name. The present trial is the most odious of his performances because of the insignificance and the probably complete innocence of his victims ; but his conduct merely as a judge was worse in some of the others. Jeffreys is the only one of his colleagues with whom one cares to compare him ; and it is to be remarked that he managed to give his proceedings a greater appearance of decency than Jeffreys ever did in similar circumstances. From the reports one would suppose that in political trials Scroggs never really lost his temper, though sometimes he pretended to ; while Jeffreys always lost his, and never attempted to conceal the fact. On the other hand, Jeffreys might have been a great judge had he not been so bad a man ; but I see no reason to suppose the same of Scroggs.

² Sir William Wild, born 1611, called 1637, a benchler of the Inner Temple, 1652, and Recorder of London in 1659, represented the City in the Convention Parliament in 1660. He was knighted on the king's return, and soon after became a serjeant and a baronet. He was on the commission for the trial of the Regicides ; became a judge of the Common Pleas in 1668, and of the King's Bench in 1673. He was dismissed, with other judges, on the 29th of April 1679 ; according to Burnet because he had detected and rebuked Bedloe's frauds ; he does not seem to have taken any objection to his evidence, however, either in this trial or in that of Reading, tried on the 16th of April. He died on the 23rd of November of the same year. His name appears to have been spelt in a great variety of ways.

³ Sir William Dolben, son of a Northumberland rector, and younger brother to the Archbishop of York, was called to the

Attorney - General, Sir William Jones,¹ the
Solicitor - General, Sir Francis Winnington,²

bar in 1653, became a bencher of the Inner Temple in 1672, and Recorder of London in 1676, when he was knighted. He became serjeant and king's serjeant in 1677, and a judge of the King's Bench in 1678. He took part in the trial of several of the Plot cases, but was dismissed in 1683 just before the Quo Warranto judgment against the City. He was replaced after the Revolution, and died in 1694. He was buried in the Temple Church.

¹ Sir William Jones entered Gray's Inn in 1647, was knighted and made King's Counsel in 1671; became Solicitor-General in 1673, and Attorney-General in 1675. He resigned this place in 1679, in disgust, it is said, with the duties he was called on to perform in connection with the Popish Plot trials, and joined the Opposition. He represented Plymouth in the House of Commons in 1680, and gained a great reputation as a lawyer; he was manager for the Commons at Stafford's trial, and strenuously supported the Exclusion Bill. He afterwards sat in the 1681 Parliament, and was an intimate friend of Lord William Russell. He died in 1682. Luttrell says he drafted the Habeas Corpus Act, and he probably also drafted the Exclusion Bill. Dryden writes:

'Bull-faced Jonas, who could statutes draw
To mean rebellion, and make treason law.'

Absalom and Achitophel, 581-82.

² Sir Francis Winnington (1634-1700) was born at Worcester and educated at Trinity College, Oxford. He was called in 1660, went the Oxford Circuit, became a bencher of the Middle Temple, King's Counsel, and Attorney-General to the Duke of York in 1672. In 1674 he was made Solicitor-General, and was returned to the House of Commons for Windsor in 1676. He was deprived of office in January 16, 1678-9, for voting for the Exclusion Bill. He sat for Worcester from 1678 to 1681, and for Tewkesbury from 1692 to 1698. He refused a judgeship in 1689.

Serjeant Stringer,¹ and the Recorder of the City of London, Sir George Jeffreys.²

The jury was sworn without any challenges, and the case was opened by the Attorney-General, who, after dwelling on the enormity of the offence charged, and explaining that it was connected with the discovery of the Plot, which both he and the Lord Chief Justice treated as a matter of public notoriety, proceeded :—

My Lord, there are contained in this indictment six offenders, all principals ; three of them, I think, are priests, or at least two of them are so ; that is, Father Girald an Irishman, Father Kelly likewise of the same nation, and one Vernatt, whether a priest or layman I know not. These priests (as they are always the first that contrive mischief, so they are always the first that fly punishment) have taken care for themselves, and run away, and left their blind followers, the prisoners at the bar, whom they had drawn into this bloody act, alone to answer for it.

The day when this murder was committed was Saturday the 12th of October last ; and I must desire your Lordship to take notice of the day, for upon

¹ Thomas Stringer was educated at Peterhouse, called to the bar in 1652, and became an ancient of Gray's Inn in 1667. He became serjeant in 1667, sat in Parliament for Clitheroe in 1679 and 1681, and became king's serjeant in 1679, a position from which he was discharged in 1687. In October 1687 his eldest son married the daughter of Lord Jeffreys, and in 1688 he was appointed judge of the King's Bench, but was not reappointed after the Revolution. He died in September 1689.

² See vol. i. p. 240.

that much of the evidence will depend. And we shall prove that as they did before send several times to Sir E. Godfrey's house to get intelligence of his going abroad, so this very day in the morning, Hill, one of the prisoners at the bar, came to his house upon pretence of business with him; and, as we guess, and have reason to believe, to learn whither he went that day: Green (another of the prisoners) had been there before on the same errand. And so much we shall prove to you by the people of the house. Sir E. Godfrey happened about noon, or some time in the afternoon of the same day (as we have it by the confession of one of the parties), to be at an house near St. Clement's church, where these murderers had notice he was, and had prepared a trap for him as he came back. They had appointed men to watch him, and give them notice when he did come back; and whatever his business was at the house that he was in (for it cannot yet be known) he staid there till about seven or eight o'clock at night: and your lordship knows that at that time of the year it is then dark. He coming from about St. Clement's church towards his own house near Charing Cross, notice was given to the murderers of his approach near to Somerset-house.¹ And thus they had laid their bloody contrivance: some of them were appointed to meet him at the back-gate of Somerset-house, and to inform him that there was a quarrel in the yard, and he being a man always careful to keep the peace and punish them that broke it, they thought it a very apt means to train him into the yard. And when he came near the back-gate they did accordingly

¹ At that time the residence of the Queen.

acquaint him that two of the queen's servants were fighting in the yard, and that they needed his presense to part and quiet them. He, at first, thought it might be but some ordinary idle scuffle, and was not willing to go down ; but being very much importuned by them, down he went, through the back-gate into the yard, where were indeed two men scuffling together, but counterfeitly ; the one was Berry, the prisoner here ; the other was Kelly, the priest that is run away. And when sir E. Godfrey was come, and within their reach, then, as it was before contrived, the fray of itself ended, and Berry goes to the lower water-gate, and Mr. Praunce (who was in that foul fact, but hath since repented, and hath made this discovery) to the upper-gate, to keep back any casual passengers for a little while, till such time as the murder was over.

My lord, things being thus prepared, whilst sir E. Godfrey stood still, or was returning, having no more to do there, after the scuffle was thus appeased, Green, one of the prisoners, coming behind him, puts a cravat, or a twisted linen cloth (which he had ready for the purpose) about his neck. And he, Hill, and those holy fathers Girald and Kelly (with great veneration be it spoken, for men of their order to stain their hands with the blood of an innocent gentleman, and that in so treacherous a manner), all set upon him, and very manfully, being four upon one, and he altogether surprized, threw him down and strangled him. And this was done (as it is easy to imagine) without much noise ; so that I doubt not but many that were near the place might be ignorant of it, and did not hear it.

My lord, though the thing was done with a great

zeal, and a very good will to dispatch him, yet it so happened, that when Mr. Praunce came back from keeping sentinel at the gate, there was some life left in sir E. Godfrey; he did stir his feet, and thereby they perceived that he was not quite dead. But to make thorough work with him, Green (who begun, and was to give an accomplishment to this bloody fact) takes hold of his head and twists his neck round, and stamps upon his breast, the marks of which outrageous cruelty did plainly appear in his body after it was found.

My lord, after they had thus killed him, Girald the priest thought he was not yet dead enough, and was very willing to run him through with sir Edmund-bury's own sword; but that was not liked by the rest, lest it might be discovered by a great effusion of blood in that place; and so they forbore it for that time. Having thus dispatched him, they removed him to the chamber of Hill, where they kept him some time, and after that to another chamber. I will not be particular herein, because the witness will give the best account of it. But after some time (I desire it may be observed, it was on Monday night, two nights after the fact was committed) they brought him into another room and laid him there, with a cloke thrown over him. And I mention this last so particularly, because he then happened to be seen by another witness here present, who concurs as to his lying there dead, and that he saw him by the help of a dark lanthorn, of which, and other circumstances, I shall have occasion to make use hereafter.

My lord, after he had lain in Somerset-house some days, they thought it was high time to remove him, or rather to expose him: for having now killed him,

they did endeavour to kill his reputation, and lay the blame of this foul murder upon this innocent gentleman, as if he had killed himself: and on Wednesday night, which by computation was the 16th of October, they carried him out of Somerset-house in this manner: Hill having late in the night procured a sedan, they made a shift, by bending the body to a fit posture, to crowd him into it; and Berry, one of the murderers, and porter of Somerset-house, was of all men most proper to help them out with privacy; and therefore it was agreed between them, that whenever a man should come before and make an hem, it should be a sign to Berry to open the gate. And, my lord, having put him into the sedan, Mr. Praunce and Girald first carried him out in it to Covent Garden, and there they rested (being something wearied with their burden) and two more supplied their rooms, and carried him to Long-acre. Then Girald and Praunce took him up again, and carried him to the Grecian church near Soho: and when they had him there, they got an horse ready and mounted him upon it, and Hill was set behind him to hold him up; by which means they carried him to the place where he was found; and there to accomplish the last part of their design, which was to murder his reputation, after they had killed his body, they took his own sword and run him through, and left him in such a manner, as that (according to the weakness of their understanding) the world should conclude he had killed himself. In that condition was the gentleman found. I have but little more at present to trouble you with, and that shall be to shew you what the murderers did after they had committed this fact. They gave an account of it the next morning to

Mr. Praunce, who went no further than the sedan went, which was to the Grecian church : and the priests were so far from any remorse, and had so little humanity (I believe there is none can think they had much of divinity) that they did in a paper, set down a narrative of this heroic act : and I doubt not but by this time it is sent to Rome, where it finds as great approbation, and causes as great joy, as their other acts of a like nature have heretofore done. Some days after the fact was done, and, to their everlasting honour, thus by themselves recorded, some of these priests had a meeting at the Queen's-head at Bow, and there was the paper produced and read at which they were very merry, and were so loud, that some of the house overheard them ; and do yet remember that they read, and were merry at, a paper which concerned sir E. Godfrey.

My lord, this will be the course of our evidence ; and though your lordship and the jury will easily believe that most of these particulars must arise from one who was party to the fact, yet, my lord, I will undertake, before I have done, so to fortify almost every particular he delivers, with a concurrent proof of other testimony, and the things will so depend upon one another, and have such a connection, that little doubt will remain in any man's mind, that is come hither without prepossession, but that sir E. Godfrey was murdered at Somerset-house, and that the persons who stand now indicted for it were the murderers.

The first witness was **TITUS OATES**,¹ called as

¹ Titus Oates, born in 1649 at Oakham, was the son of Samuel Oates, rector of Marsham in Norfolk, who became an

the prosecution explained to describe what part

Anabaptist in 1646; was chaplain to Pride's regiment from 1649 to 1654, when he was expelled for sedition; received the living of All Saints, Hastings, in 1666, from which he was expelled in 1674; and died in 1683. Titus entered and was expelled from Merchant Taylors' School in 1665, entered Caius College, Cambridge, in 1667, migrated to St. John's in 1669, was sent away from there 'for want of money,' and having obtained orders, became vicar of Bobbing in Kent in 1673. He afterwards also became curate to his father at Hastings, but having made infamous charges against a parishioner he was cast in £1000 damages and imprisoned when he could not pay, and his father was evicted from the living. After managing to escape from prison he became chaplain on a King's ship, but was soon expelled and became chaplain to the Duke of Norfolk's Protestant servants at Arundel. In 1676 he met Israel Tongue, rector of St. Mary's, Steyning, in London, who was then engaged in writing pamphlets against the Jesuits in a more or less sincere belief of the existence of a Jesuit plot. Oates assisted him in this work; but soon started on the notorious part of his career by making acquaintance with leading Jesuits at their principal haunts in London, formally joining the Romish Church, and eventually getting into some kind of terms with the priests at Somerset House, then the residence of the Queen. By them he was sent in 1677 to the Jesuit College at Valladolid, but was expelled from there in five months. On 10th December 1677 he was admitted to the Jesuit College at St. Omer's, but was expelled from there on 23rd June 1678. He then returned to London, and together with Tongue fabricated the leading incidents in the Popish Plot. The story was first told in August 1678, and from that date till the trial of Wakeman in 1679 Oates' influence grew with the panic he helped to cause. The acquittal of the prisoner in that case was a severe blow to Oates' influence, which thenceforward declined, though it sufficed to carry him through the intricacies of the sham Plot and to procure the conviction of some personal opponents as well as Lord Stafford in 1680. In

he had taken in the discovery of the Plot, so as to prove the motive for his murder.

LORD CHIEF JUSTICE—Come, Mr. Oates, pray tell your knowledge.

OATES—My Lord, upon the 6th of September last I did go before sir E. Godfrey, and there upon oath gave in several depositions, and after that I had made oath of those depositions, we took the record along with us home again. And on the 28th of September, after we had taken two or three copies of this record,

1681 he failed in several causes; his pension was reduced in April, and stopped altogether in August. In 1684 he was imprisoned in default of paying £100,000, a fine imposed on him for *scandalum magnatum* in calling the Duke of York a traitor. On 8th May 1685 he was convicted of perjury, and sentenced to a fine, to stand in the pillory annually, to be whipped from Aldgate to Newgate, and from Newgate to Tyburn, and to perpetual imprisonment. After the Revolution he was released, and his sentence declared to have been illegal; eventually, at the request of the House of Commons, the King granted him a pension of £5 a week, which was raised later to £300 a year. About 1698 he became a Baptist and officiated in Wapping Chapel, but was expelled from the sect in 1701. He died in 1705.

Dryden's description of him (*Abs. and Ach.* 632 *et seq.*) is well known :—

'Sunk were his eyes, his voice was harsh and loud,
Sure signs he neither cholerick was, nor proud;
His long chin proved his wit, his saint-like grace
A cheek vermillion, and a Moses' face.
His memory, miraculously great,
Could plots exceeding man's belief repeat;
Which therefore cannot be accounted his,
For human wit could never such devise.
Some future truths are mingled in his book,
But where the witness failed, the prophet spoke.'

we went before sir E. Godfrey again, and swore all the copies we had taken, and so made them records. My lord, after that, the business was made known to the council by myself, and upon Monday sir E. Godfrey came to me, which was, I think, the 30th of September, and did tell me, what affronts he had received from some great persons (whose names I name not now) for being so zealous in this business. And, my lord, he told me, that others, who were well inclined to have the discovery made, did think that he had not been quick enough in the prosecution, but had been too remiss, and did threaten him, that they would complain to the parliament, which was to sit the 21st of October following. My Lord, that week before sir E. Godfrey was missing, he came to me, and told me, that several popish lords, some of whom are now in the Tower, had threatened him, and asked him what he had to do with it. My Lord, I shall name their names when time shall come. My Lord, this is all I can say : he was in great fright, and told me, he went in fear of his life by the popish party, and that he had been dogged several days.

ATTORNEY-GENERAL—Did he tell you that he was dogged ?

OATES—Yes, he did ; and I did then ask him, why he did not take his man with him ; he said he was a poor weak fellow : I then asked him why he did not get a good brisk fellow to attend him ? But he made no great matter of it ; he said, he did not fear them, if they came fairly to work ; but yet he was often threatened, and came sometimes to me to give him some encouragement ; and I did give him what encouragement I could that he would suffer in a just cause, and the like ; but he would often tell

me he was in continual danger of being hurt by them.

ATTORNEY-GENERAL—We desire Mr. Robinson may be sworn. Which was done accordingly.

RECORDER—Pray sir, will you tell the court and the jury, what discourse you had with sir E. Godfrey, and what apprehensions he had concerning this business.

THO. ROBINSON, Esq. (Chief Prothonotary of the Court of Common Pleas)—My Lord, sir E. Godfrey and I were of a very ancient acquaintance for above forty years ; we were bred up together at Westminster-school, and continued in that acquaintance all along, except in the times of the war, and were for many years together in commission for the peace, both for this county and this city. We met at the quarter sessions for Westminster, the 7th of October, which was Monday as I take it, and meeting there, we went, after the court was up, and dined with the head bailiff, as the custom is ; where sir E. Godfrey and I did discourse several things about this Plot ; I said to sir E. Godfrey, I understand you have taken several examinations about this Plot, that is now made public : truly, said he, I have ; but I think I shall have little thanks for my pains, or some such words : saith he, I did it very unwillingly, and would fain have had it done by others. Why said I, you did but what was your duty to do, and it was a very good act : pray, sir, have you the examinations about you, will you please to let me see them ? No, I have them not, said he ; I delivered them to a person of quality ; but as soon as I have them, you shall see them. But said I, I should be very glad to understand, sir Edmundbury, that the depth of the matter were found out. I am

afraid, said he, of that that it is not ; but discoursing further, he said to me, 'Upon my conscience, I believe I shall be the first Martyr.' Why so? said I, are you afraid? No, said he, I do not fear them, if they come fairly, and I shall not part with my life tamely. Why do not you go with a man, said I, if you have that fear upon you? Why, said he, I do not love it, it is a clog to a man. But, said I, you should do well to keep a man ; I observe you never go with one.

Then MR. PRAUNCE¹ was sworn.

ATTORNEY-GENERAL—Pray, Sir, begin at the very beginning ; the meetings you had at the Plough ale-house, and the sending to sir Edmundbury's house, and all the story.

LORD CHIEF JUSTICE—Mr. Praunce, pray tell us the first motives that were used to you to do this thing, and the first time it was mentioned ; who they were first that mentioned it, and where.

PRAUNCE—My lord, it was about a fortnight or

¹ Miles Praunce was originally arrested as being himself implicated in the murder of Sir Edmund Godfrey. After being examined by a committee of the House of Lords, he was re-committed to custody ; and while there seems to have found means of concocting his evidence in this case. After telling his story once, he retracted it, was cast once more into prison, and then became willing to tell it again, as above. After the trial he became an assiduous supporter of Oates ; though it is impossible to trace him through his various appearances. In June 1686 he pleaded guilty to having committed perjury in this case, and was sentenced to be fined £100, to appear before each court in Westminster Hall with a paper on his forehead expressing his crime, to be pilloried, and whipped. The last part of his sentence was remitted. After an unsuccessful attempt to leave the country in 1688, he disappeared, probably abroad.

three weeks before he was murdered, we met several times at the Plough alehouse.

LORD CHIEF JUSTICE—With whom?

PRAUNCE—With Mr. Girald, Mr. Green and Mr. Kelly. Girald and Kelly did intice me in, and told me it was no sin.

RECORDER—Girald and Kelly did?

PRAUNCE—Yes, Girald and Kelly.

RECORDER—What are they?

PRAUNCE—Two priests: And they said, it was no sin, it was a charitable act. They said he was a busy man, and had done and would do a great deal of mischief, and it was a deed of charity to do it; and so they told the rest besides.

ATTORNEY-GENERAL—Where was it they said thus?

PRAUNCE—They said it at the Plough, and by the water-side.

RECORDER—Well said. How long was it before he died?

PRAUNCE—A week or a fortnight before he was murdered, and Green, Hill, and Girald met there together.

ATTORNEY-GENERAL—What discourse had you then?

PRAUNCE—There they resolved, that the first that could meet with him should give notice to the rest to be ready: and so in the morning, when they went out on Saturday—

ATTORNEY-GENERAL—But before you come to that, do you know of any dogging of him into the fields?

PRAUNCE—Yes, it was before that, I heard them say they would, and had dogged him into the fields.

LORD CHIEF JUSTICE—Who did you hear say so?

PRAUNCE—Girald, Kelly, and Green.

ATTORNEY-GENERAL—That Green is one of the prisoners.

RECORDER—Which way did they dog him? what fields?

PRAUNCE—Red-lion-fields, and those by Holborn.

ATTORNEY-GENERAL—Why did they not kill him there?

PRAUNCE—Because they had not opportunity.

ATTORNEY-GENERAL—Do you know of any sending to his house, or going to it?

PRAUNCE—One time I do know of, and that was Saturday morning, Mr. Kelly came to give me notice, that they were gone abroad to dog him; and afterwards they told me, that Hill or Green did go to his house and ask for him, but the maid told him, he was not up, and then went away, and said he would call by and by.

HILL—What time was that in the morning?

PRAUNCE—It was about 9 or 10 o'clock in the morning.

HILL—And had we been there before or after?

PRAUNCE—You had been there before.

RECORDER—Pray stay till such time as we have done with our evidence, you shall have all free liberty to ask him any question; but you must stay till we have done.

PRAUNCE—As soon as they heard he was within, they came out and staid for his coming out, and dogged him. Only one went to his house, either Hill or Green; Girald or Green told him this. When sir Edmund came out of his house they dogged him.

MR. JUSTICE JONES—Who dogged him?

PRAUNCE—Girald, Green, and Hill dogged him into St. Clement's; and about seven o'clock, Green

came and gave me notice, that he was at St. Clement's, and I came to Somerset-house as fast as I could.

LORD CHIEF JUSTICE—Where were you?

PRAUNCE—At my own house.

LORD CHIEF JUSTICE—How far did you live from Somerset-house?

PRAUNCE—I lived in Princess-street, not far from Somerset-house.

RECORDER—Who was it gave you notice?

PRAUNCE—It was Green. He told me, that Girald and Kelly were watching him, and that he was at St. Clement's.

LORD CHIEF JUSTICE—Where was he?

PRAUNCE—At St. Clement's, my lord.

LORD CHIEF JUSTICE—Were you there?

PRAUNCE—I was not there, they told me so, and no more; and about eight or nine o'clock, Hill came before, up the street, and gave us notice that we must be ready. And so, my lord, as soon as Hill had given us notice, he went up to the gate, and staid there till sir E. Godfrey came by, and then told him, there were two men a quarrelling, and desired him to come and try whether he could pacify them: he was very unwilling. But pray, Sir, saith Hill, you being a justice of the peace, may qualify them; and so he went down till he came to the bottom of the rails; and when he came to the bottom of the rails, Green twisted his handkerchief, and threw it about his neck, and threw him behind the rails, and there throttled him, and punched him, and then Girald would have thrust his sword through him; but the rest would not permit him, for fear it should discover them by the blood. And about a quarter of an hour after I came down, and found he

was not quite dead ; for I laid my hand upon him, and his legs tottered and shook, and then Green wrung his neck quite round.

He the witness did not see Green take Sir Edmundbury by the neck, but Green afterwards boasted that he had done so, and had punched him with his knee. When it was done the witness was by the water-gate, where he had been ordered by Green. Berry was watching the stairs. Hill, Green, Girald and Berry were about the body when Praunce came down to the gate. He and Berry joined them afterwards, and they all helped to carry him into the room. Hill went before and opened the door.

ATTORNEY-GENERAL—Whose room was that?

PRAUNCE—It was a chamber of Hill's, in Dr. Godwin's house.

RECORDER—Was Hill Godwin's man?

PRAUNCE—Yes, he had been.

MR. JUSTICE JONES—Did Berry help to carry him in?

PRAUNCE—Yes, Berry did.

MR. SERJEANT STRINGER—Was there any discourse of a sword to be thrust through him at that time?

PRAUNCE—Yes, Girald said he would thrust a sword through him ; but they would not let him, for fear of discovery.

ATTORNEY-GENERAL—What became of the body?

PRAUNCE—It lay there till Monday night, and on Monday it was removed to Somerset House, and upon

Monday night Hill did shew me it with a dark lanthorn.

ATTORNEY-GENERAL—Who were in the room then?

PRAUNCE—Girald, and Hill, and Kelly, and all were there. And on Tuesday night it was brought back again: Mr. Hill would have carried him into his own lodging.

LORD CHIEF JUSTICE—Whither did they carry him on Monday night?

PRAUNCE—Into Somerset House.

JUSTICE WILD—Is not Hill's chamber in Somerset House?

SERJEANT STRINGER — Describe the room, Mr. Praunce, as well as you can.

PRAUNCE—I am not certain of the room, and so cannot describe it.

JUSTICE WILD—But was not Hill's chamber in Somerset House?

PRAUNCE—It is in the lower part of the house, in a court.

ATTORNEY-GENERAL—When you saw him in this room, pray what was thrown over him?

PRAUNCE—There was something, I cannot tell what; for I durst not stay long there.

JUSTICE DOLBEN—What light was there?

PRAUNCE—Only a dark lanthorn.

ATTORNEY-GENERAL—Who carried it?

PRAUNCE—Hill carried it.

JUSTICE DOLBEN—Are you sure you saw the body there?

PRAUNCE—Yes, I am certain of it.

ATTORNEY-GENERAL—What became of it after that?

PRAUNCE—On Tuesday night it was carried to Hill's, the chamber where he was first brought after he was

murdered ; but there was somebody there, and so they could not carry it into the room, but they carried him into a room just over against, I think they were sir John Arundell's lodgings, I cannot tell. There it lay till Wednesday night, and about nine o'clock on Wednesday night they were removing the body into the room where it first lay ; and I happened to come as they were removing it, and they were affrighted and run away : But I spoke, and Berry came back again, and got the body up into the room, and about 12 o'clock they carried it away in the sedan.

ATTORNEY-GENERAL—Who brought the sedan ?

PRAUNCE—Hill did.

ATTORNEY-GENERAL—Who put him into it ?

PRAUNCE—We all set our hands to it.

ATTORNEY-GENERAL—Who carried him out first ?

PRAUNCE—I and Girald.

ATTORNEY-GENERAL—Out of which gate ?

PRAUNCE—The upper gate of the upper court.

ATTORNEY-GENERAL—How came you to have the gate opened ?

PRAUNCE—Berry opened it.

ATTORNEY-GENERAL—How came he to open it ?

PRAUNCE—Somebody hem'd, and that was the sign.

ATTORNEY-GENERAL—Who was it that carried the sedan first ?

PRAUNCE—I and Girald.

ATTORNEY-GENERAL—Who went before ?

PRAUNCE—Green and Kelly.

RECORDER—How far did you carry him ?

PRAUNCE—Into Covent Garden, and there we rested.

ATTORNEY-GENERAL—And who took him up then ?

PRAUNCE—Green and Kelly.

ATTORNEY-GENERAL—How far did they carry him ?

PRAUNCE—They carried him to Long-Acre. Then we took him up and carried him to Soho church, and there Hill met us with an horse, and we helped the body up.

ATTORNEY-GENERAL—Who was it that rid behind him?

PRAUNCE—It was Hill.

ATTORNEY-GENERAL—What did you do with your sedan?

PRAUNCE—We set it in a new house till we came back again.

LORD CHIEF JUSTICE—You say you saw him on horseback?

PRAUNCE—Yes, my Lord, I did.

LORD CHIEF JUSTICE—How, in what posture?

PRAUNCE—Astride; his legs were forced open, and Hill held him up.

HILL—Did I hold him?

PRAUNCE—Yes, you did.

LORD CHIEF JUSTICE—Did the others go with him?

PRAUNCE—Yes, my Lord.

LORD CHIEF JUSTICE—Who did go with him?

PRAUNCE—Green, Hill, Girald, and Kelly.

ATTORNEY-GENERAL—Pray, will you tell my lord and the Jury, what account they gave you the next morning concerning the body, and how they had disposed of it.

PRAUNCE—They told me——

LORD CHIEF JUSTICE—Who told you?

PRAUNCE—Hill, Kelly, and Girald.

LORD CHIEF JUSTICE—What did they tell you?

PRAUNCE—First, that they had run him through with his own sword; then thrown him into a ditch, and laid his gloves and other things upon the bank.

There was afterwards a meeting at the Queen's Head at Bow to which the witness was bidden by Vernatt, who said that the occasion was 'only to be merry there.' There were priests there, but Praunce could not remember their names, which were however written on a paper he produced: there were besides the witness, Vernatt, Girald, Luson, another priest, and one Bethicke sent for by Vernatt. They had dinner there off a barrel of oysters and a dish of fish bought by Praunce. It took place on the Friday after the proclamation that all papists were to be gone out of town. When they were assembled they read an account of the murder.

ATTORNEY-GENERAL—Mr. Vernatt was very sorrowful at the reading of it, was he not?

PRAUNCE—If he was, it was because he was not there.

ATTORNEY-GENERAL—How did he behave himself? Did he read it with any pleasure and delight?

PRAUNCE—We were all very merry.

ATTORNEY-GENERAL—What can you say about anybody's overhearing you?

PRAUNCE—There was a drawer came and listened at the door, and I hearing the door a little rustle, went to the door and caught him listening; and said I to him, sirrah, I could find in my heart to kick you downstairs; and away he went.

JUSTICE WILD—Was Vernatt with you there that night he was murdered, the Saturday night?

PRAUNCE—No; there was only the six I have named.

JUSTICE JONES—You say that you met at the Plow the first night?

PRAUNCE—Yes.

JUSTICE JONES—And there you were told, that it was a very charitable act to kill sir E. Godfrey?

PRAUNCE—Yes, I was so.

JUSTICE JONES—Was it agreed there that he should be killed?

PRAUNCE—It was agreed there; and the first that met him were to give notice to the rest.

JUSTICE JONES—Who were there?

PRAUNCE—Girald, Kelly, Green, and I.

LORD CHIEF JUSTICE—When came Hill and Berry into this cause? How came they acquainted with it?

PRAUNCE—They were in it before I.

LORD CHIEF JUSTICE—Who told you they were in it?

PRAUNCE—Mr. Girald, my lord, told me so.

JUSTICE JONES—Hill and Berry were not at the Plow, where did you first hear them speak of it?

PRAUNCE—Girald and I have been at Berry's house divers times.

JUSTICE DOLBEN—But there were two meetings at the Plow, were there not?

PRAUNCE—Yes, there were.

JUSTICE DOLBEN—And Hill was at the last meeting, was he not?

PRAUNCE—Yes, he was, my lord.

ATTORNEY-GENERAL—Now I would ask you this question by the favour of the Court, was there any reward proposed by these priests for the doing of it?

PRAUNCE—Girald and Vernatt did speak of a great reward that was to be given for it.

ATTORNEY-GENERAL—Pray, how much?

PRAUNCE—I do not remember what.

ATTORNEY-GENERAL—Cannot you tell how much?

PRAUNCE—There was to be a good reward from my lord Bellasis,¹ as they said.

JUSTICE DOLBEN—You had several meetings, you say. Did you there resolve what should be the way of doing it?

PRAUNCE—Girald was resolved to kill him that night; and if he could not get him into a more convenient place, he would kill him with his own sword in the street that leads to his own house.

RECORDER—Who was that that resolved so?

PRAUNCE—It was Girald.

RECORDER—The priest, rather than fail, was resolved to do that act of charity himself.

ATTORNEY-GENERAL—I would now ask you a question, which, though it does not prove the persons guilty, yet it gives a great strength to the evidence. Do you know Mr. Bedlow, Mr. Praunce?

PRAUNCE—I do not know him.

ATTORNEY-GENERAL—Had you ever any conference with him before you was committed to prison?

PRAUNCE—Never in all my life.

ATTORNEY-GENERAL—Were you ever in his company in your life before that you know of?

PRAUNCE—No, not that I remember.

ATTORNEY-GENERAL—Well, you shall see how far he will agree with you.

RECORDER—Now they may ask him any questions, if they please, for we have done with him.

LORD CHIEF JUSTICE—Let them if they will.

HILL—My lord, in the first place, I humbly pray

¹ One of the accused lords.

that Mr. Praunce's evidence may not stand good against me, as being perjured by his own confession.

LORD CHIEF JUSTICE—How?

HILL—I suppose, my lord, it is not unknown to you that he made such an open confession before the king.

LORD CHIEF JUSTICE—Look you, sir, I will tell you for that, I do not know that ever he made a confession to contradict what he had said upon his oath.¹

HILL—He was upon his oath before.

LORD CHIEF JUSTICE—Yes, he had accused you upon oath; but afterwards, you say, he confessed that it was not true, but that confession that it was not true, was not upon oath. How is he then guilty of perjury?

HILL—My lord, if a man can swear a thing and after deny it, he is certainly perjured.

LORD CHIEF JUSTICE—If a man hath great horrors of conscience upon him, and is full of fears, and the guilt of such a thing disorders his mind, so as to make him go back from what he had before discovered upon oath, you can't say that man is perjured, if he don't forswear it. But I believe nobody did believe his denial, because his first discovery was so particular that every man did think his general denial did only proceed from the disturbance of his mind. But have you any mind to ask him any questions?

RECORDER—We can prove that immediately after he retracted his recantation.

JUSTICE DOLBEN—Try if you can trap him in any question.

HILL—Pray, what hour was it that I went to sir Edmundbury Godfrey's?

¹ See *post*, p. 164.

PRAUNCE—About nine or ten o'clock, I am not certain in the hour.

LORD CHIEF JUSTICE—No, no, a man cannot be precise to an hour ; but prove you what you can.

HILL—I have a great many witnesses, besides the justice of my cause, that I was not out of my house that day.

LORD CHIEF JUSTICE—You shall be heard for that ; but the present matter is, whether you will ask him any questions or no ?

HILL—My lord, it is all false that he says, and I deny every word of it, and I hope it shall not be good against me.

LORD CHIEF JUSTICE—Well, Mr. Berry, will you ask him any questions ?

BERRY—Mr. Praunce, who was in my house at that time you speak of ?

PRAUNCE—There was your wife there, and several other persons besides.

BERRY—Who were they ?

PRAUNCE—There were divers people ; it is an ale-house.

BERRY—But who ? Can you name any of them ?

PRAUNCE—There was Girald, and Kelly, and I.

LORD CHIEF JUSTICE—Why, did you not all know Mr. Praunce ?

BERRY—My lord, I knew him as he passed up and down in the house.

LORD CHIEF JUSTICE—Why, what answer is that ? What do you mean by his passing up and down in the house ? Did you never drink with him ?

BERRY—Drink with him, my lord ? Yes.

LORD CHIEF JUSTICE—Yes ? Why people don't use to drink as they go along.

BERRY—It was in other company that came to my house, no acquaintance of mine.

LORD CHIEF JUSTICE—Was not Mr. Praunce known by you all three? Which of you can deny it? What say you, Hill?

HILL—My lord, I did know him.

LORD CHIEF JUSTICE—What say you, Green?

GREEN—Yes, I did know him.

ATTORNEY-GENERAL—But yet, my lord, we shall prove in the course of our evidence, that upon their examinations, they did deny they ever knew him; but because the prisoners give us this occasion, I desire Mr. Praunce may give an account of one thing. He was concerned in this very fact, and there was no other way to get any proof of it, than by the discovery of one among themselves. He was once of that religion, or else he had never been concerned in this thing. And your lordship will find that Mr. Praunce, while he was of that religion, and not sure of his pardon, was under some disturbances and fears, which prevailed with him to come before the king and deny what he had sworn. But, my lord, which is very observable, this gentleman that had made that denial before the king was so far convinced that he had done amiss in it, and so troubled that he had done it, that he desired captain Richardson (as soon as he returned back to prison) to carry him back to the king again; for he must go back and make good that confession which he at first had made; for it was every word true. And being for the king, we desire captain Richardson may be sworn.

JUSTICE WILD—Can you tell where sir E. Godfrey was dogged?

PRAUNCE—No, my lord, I cannot.

JUSTICE WILD—You say they did tell you that they dogged him up and down. Did not they tell you from whence they dogged him when they killed him?

PRAUNCE—No, they did not.

LORD CHIEF JUSTICE—Mr. Richardson, were you by when Mr. Praunce denied all that he had confessed?

CAPTAIN RICHARDSON—My lord, upon the Sunday night before the prorogation of the last parliament, I received a letter from one of the lords of the council to bring up Mr. Praunce before the lords of the committee for his examination. When I brought him thither I found Mr. Praunce was disturbed, and desired to speak with the king; and I carried him into the king's closet, where he fell down on his knees and said, 'He was innocent, and they were all innocent'; and that was the substance of all he said. I then had him up to the council, where he said the same thing. The lords asked him whether any body had been tampering with him? He answered, No. My lord, when I came home, I was no sooner got within the doors but he begged of me, for God's sake, to go back to the king, and to acquaint him, not only that what he had now said was false, but that all which he had sworn before was truth. And if his majesty would send him a pardon, he would make a great discovery. And, my lord, more than that, he said, It was fear that made him recant; and he gave a full satisfaction, that it was only out of an apprehension that his life was not secure, that his trade would be lost among the Roman Catholics; and in case he had his pardon, and were saved, he should have been in danger of being murdered by them.

LORD CHIEF JUSTICE—Now you have an account,

Mr. Hill, how he came to deny, and how soon he recanted his denial.

JUSTICE JONES—You are upon your oath, Mr. Praunce. Is this all true that he hath said?

PRAUNCE—Yes, my lord, it is.

RECORDER—How hath he behaved himself since that time?

CAPTAIN RICHARDSON—As soberly as can be, since he had his pardon.

ATTORNEY-GENERAL—Pray, since that time have you had any discourse with him? And how did he carry himself?

CAPTAIN RICHARDSON—Very soberly.

ATTORNEY-GENERAL—Did he express any abhorrence of the practice of that church?

CAPTAIN RICHARDSON—Yes, my lord, he did so.

ATTORNEY-GENERAL—I hope it will make all people abhor and forsake them in time, if these be their practices. In the next place, my lord, we will call Mr. Bedloe, who, though he was not present at the murder, yet he saw the body after it was dead in Somerset-house, which goes to the matter as to the place; and he will give you some circumstances which will very much corroborate the testimony of Mr. Praunce.

JUSTICE WILD—What time was it before they carried him in, after they had killed him?

LORD CHIEF JUSTICE—Brother, I think they say, between eight and nine they decoyed him through the water-gate. Was it not so?

PRAUNCE—Yes, my lord.

JUSTICE WILD—How long had they killed him before they carried him into the room?

PRAUNCE—About a quarter of an hour.

JUSTICE WILD—Had he his sword about him?

PRAUNCE—Yes, it was found run through him.

JUSTICE WILD—Did sir E. Godfrey himself draw his sword?

PRAUNCE—No; he was strangled by surprise, by getting a thing about his neck, and prevented him of drawing his sword.

LORD CHIEF JUSTICE—They were persons that were ready prepared for him, they would not permit him to defend himself.

Then *Mr. Bedloe* was sworn.

RECORDER—*Mr. Bedloe*, pray do you direct your discourse to the Jury.

LORD CHIEF JUSTICE—*Mr. Attorney*, pray do you ask him your questions, that you may put him in that method you would have him take to give his evidence.

ATTORNEY-GENERAL—My lord, I would first ask him this question: What conference he had with any persons, priests or others, about murdering any body?

BEDLOE¹—My lord, and the Jury, I have at other

¹ William Bedloe (1650-1680), according to his own account, was descended from an old Irish family. As a boy he was certainly working as a cobbler with his step-father at Chepstow. Here he came under the notice of the Jesuits, and by them was educated, brought to London, and sent to Dunkirk, to Father Harcourt the Jesuit, afterwards one of Oates' victims. For some years he travelled about the Continent, engaged apparently in a variety of discreditable pursuits. He first appeared in public in this trial, but afterwards became one of Oates' chief allies. Like Oates, he received handsome payment for his evidence, and in 1679 married a reputed co-heiress to £600. He shared in Oates' decline, but died at Bristol in August 1680, when Sir Francis North, who was on circuit, attended to take his dying depositions.

times, and in other places, proved what familiarity I have had with the priests and Jesuits; and if I have not satisfied the Court and others about it, yet I have done my duty in endeavouring so to do. My lord, I have been several times treated with, not only about the plot but by several persons about murdering of a gentleman. They never told me who it was that was to be murdered; but if I would undertake it, they, that is Le Faire and Pritchard, and Mr. Kaines, and several other priests, who discoursed with me about it, would find out some to assist me, and my reward should be very considerable.

LORD CHIEF JUSTICE—When was this?

BEDLOE—It was in October last, about the beginning, or the latter end of September.

LORD CHIEF JUSTICE—Well, Sir, go on.

BEDLOE—I did adhere to them all along, for I had a mind to discover two years ago, but was prevented; and I only drilled them on, to know the party, that I might prevent them. But they would never discover the party.

ATTORNEY-GENERAL—Pr'ythee come to this particular part of the story.

BEDLOE—Afterwards they set me to insinuate myself into the acquaintance of sir E. Godfrey, not telling me they had a design upon him.

LORD CHIEF JUSTICE—Who did?

BEDLOE—Le Faire, and Pritchard, and Welsh.

LORD CHIEF JUSTICE—Girald was not one, was he?

BEDLOE—No, my lord. But they told me that afterwards they would have me introduce them into his acquaintance. And I had been, I think, six or seven days together with sir E. Godfrey at his house, and had got much into his acquaintance.

JUSTICE WILD—By what means did you get into his acquaintance?

BEDLOE—Why, I pretended to get warrants for the good behaviour against persons that there were none such.

LORD CHIEF JUSTICE—Well, and what then?

BEDLOE—This was the week before the Saturday that he was killed; and I was there every day but Saturday. On the Friday I went to the Greyhound tavern, and I sent my boy to see if sir E. Godfrey were at home: sir E. Godfrey was not at home then.

LORD CHIEF JUSTICE—When was that?

BEDLOE—The very day before he was killed. If he had been at home I would have gone over to him, and would have desired him to go over to them.

LORD CHIEF JUSTICE—Were the priests there?

BEDLOE—Yes, my lord, there was Pritchard, and Le Faire, and Welsh and Kaines, and another five Jesuits. And, as I said, I sent my boy to see if he were at home, and he brought me word he was not; and if he had, I was to have gone to him to have fetched him thither, that they might insinuate themselves into his acquaintance. And indeed they had tongue enough to wheedle themselves into any one's acquaintance. So he not being at home, we came into the city, two of the Jesuits and I.

ATTORNEY-GENERAL—Which two?

BEDLOE—Le Faire and Welsh. The next morning Le Faire came to my chamber, and I was not then within, but by accident I met him, about four of the clock, in Lincoln's-Inn-Fields. We went to the Palsgrave's-Head tavern; where, falling into discourse, he told me there was a gentleman there that was to be put out of the way, that was the phrase he

used ; he did not really say murder him, for they do not count it murder.

LORD CHIEF JUSTICE—No, no ; they put it into softer terms.

BEDLOE—They told me it was to be done to-night. I asked who it was. They said it was a very material man, for he had all the informations, that Mr. Oates and Dr. Tongue¹ had given in ; that several had been employed in the doing it ; that several attempts had been made, and that they had missed several opportunities, and had not done it till then ; but if he should not be taken out of the way, and the papers taken from him, the business would be so obstructed, and go near to be discovered, to that degree, that

¹ Israel Tong (1621-1680) matriculated at University College, but preferred to leave Oxford in 1643, rather than bear arms for the king. He accordingly retired to Chipping Norton, where he taught a school, but returned to Oxford in 1648, and was made a fellow of his college. He subsequently and successively became rector of Pluckley, fellow of Durham, when Durham College was abolished schoolmaster at Islington, then chaplain to the forces at Dunkirk ; when Dunkirk was surrendered he became vicar of Leintwardine, then rector of St. Mary Staying, and when his church and parish were burnt in the Fire of London, he became chaplain at Tangier. After two years there he became rector of St. Michael's, Wood Street ; and subsequently also vicar of Aston in Herefordshire. During the latter part of this varied career he occupied himself with writing pamphlets against the Jesuits, and describing more or less fanciful plots. In 1676 he made Oates' acquaintance, and after that seems to have followed his lead, possibly, it appears with some kind of belief in the stories he helped to spread. He seems to have been a man of no ability ; but he is the remotest source known to history to which the genesis of the Plot can with certainty be attributed.

they would not be able to bring this design to pass, but must stay till another age before they should effect it. I asked him again who it was; he said he would not tell me, but it was a very material man. I told him, that according to my promise, I would assist: but in such a case I should need a great many men to be with me, he being so considerable a person. I asked him then where the money was, that was formerly promised. He told me no worse a man was engaged in it than my lord Bellasis, and Mr. Coleman had order to pay it.

JUSTICE JONES—What was the reward?

BEDLOE—Four thousand pounds.

LORD CHIEF JUSTICE—Who was it that first named this gentleman to you to be sir Edmundbury Godfrey?

BEDLOE—They never named him to me at all.

LORD CHIEF JUSTICE—Let us know when you first knew it to be sir Edmundbury Godfrey?

BEDLOE—I parted with him then, but came not according to my promise. I was to meet him at the cloisters at Somerset-house that night: but I knew their design was to murder somebody, and I would not come. I saw him no more till Monday night; then I met him in Red-Lion-Court, where he put up his cane to his nose, as who should say, I was to blame in not keeping my promise. And we went together to the Greyhound tavern in Fleet-street, where he charged me with my breach of promise. I told him I was taken up by other company, and unless they would tell me who it was I was to kill, I would have no hand in it: for I did not know but that it might be my own particular friend. And I would not murder any private person, unless I knew who it was, and for what reason. Well, says he, we

will tell you more anon if you meet me to-night at Somerset-house at nine o'clock. I did meet him exactly at that time in the cloisters, where we walked and talked a great while. And then he took me into the middle of the court, and told me, you have done ill, that you did not help in the business; but if you will help to carry him off, you shall have half the reward. Why, said I, Is he murdered? Yes, said he. May I not see him? said I. Yes, you may, said he; and so took me by the hand, and led me into the room through a dark entry. In the room were a great many, I cannot tell who they all were.

There were a great many standing behind one another; he saw four or five; they had a small light in the middle of the room, and they discoursed of carrying the body away.

LORD CHIEF JUSTICE—Did you know him, when he lay dead there?

BEDLOE—Yes, your lordship shall hear how I came to know him. One stepped to the body, and threw off the thing that lay upon him, and I went and looked upon him; and he had got about his neck such a kind of a twisted cravat as this about my neck; and I went to try, and could not get my finger in betwixt. So I saw him, his bosom was all open, and I knew him presently; for those Jesuits that were there, were not those who had employed me to insinuate myself into his acquaintance; and so they thought I had not known him. I asked who it was; they said it was a man that belonged to a person of quality. I was mightily struck and daunted when I knew him: I would fain have persuaded them to have

tied weights at his head and feet, and thrown him into the river ; and afterwards I would have dragged for him, and took him up there. But they did not think that so safe. No (said they), we will put it upon himself, there are none but friends concerned. I asked Le Faire how they should get him out? They said, in a chair. Then I asked them, which way they would get him into the chair and out of the gate? They said the porter was to sit up to let them out.

RECORDER—What porter?

BEDLOE—The porter of the house.

RECORDER—Who, Berry?

BEDLOE—Yes. As for that Hill, or the old man, I do not know that I ever had any particular knowledge of them ; but only I looked upon them as ill designing men, seeing them in the chapel.

LORD CHIEF JUSTICE—Did you ever see ever a one of the three prisoners there at that time?

BEDLOE—No, my lord : But I have such a remembrances of faces, that I could tell if I saw them again, any that I did see there, though the light was but small. They told me, They had strangled him ; but how, I did not know. When they pressed me to help to carry him out, I then excused myself, and said, it was too early to carry him out yet ; but about eleven or twelve o'clock would be a better time. And I assured them I would come again. Said Le Faire to me, 'Upon the sacrament you took on Thursday, you will be at the carrying off of this man at night?' I promised him I would. And he went away, and left me there. I made what speed away I could, for I was very unsatisfied in myself ; having so great a charge upon me, as the sacrament of the altar, which, after the discovery of the plot, was administered to

me twice a week to conceal it. I could not tell how to discover it: I went then to Bristol, but very restless and disturbed in my mind; and being persuaded by what God was pleased to put into my mind, calling to remembrance that some murders had been already committed, and greater ones were daily intended, I was at last convinced and could no longer forbear discovery. I wrote to the secretary of it, and went to the parliament and gave in my information. And one day I met with Mr. Praunce in the lobby, and knew him, and apprehended him.

He had never seen Praunce at all to have any discourse with him. He did not see Hill the day when he was to have carried the body away; he saw Green about the court, and was told that Berry was to open the gate.

But, my lord, when they found I did come again, they desisted that night, and kept it off longer, for fear I should come again to stop them.

ATTORNEY-GENERAL—He did not refuse to help them, but promised to do it, and failed: And they finding that he had failed them, would not let the body lie where it was, for fear of discovery, but removed it back again.

JUSTICE DOLBEN—What did Praunce say when you first took notice of him?

BEDLOE—I understood afterwards that he was taken upon suspicion, because at that time his maid had made a discovery, that he was about that time out of his lodgings. And while he was there in the constable's hands, Mr. Oates came by, and he desired to see him; and presently after I came thither, and the

constable asked him, Mr. Praunce, will you see Mr. Bedloe? No, he said, he would not: Then he put his hat over his eyes, that I might not see his face, and kept it so. The press being great, and being desirous to be private myself, I spoke to the guard to put out all that had no business there, and they cried out, that all should avoid the room but Mr. Bedloe and his friends. And when he was going out with the rest, he lifted up his hat to see his way; and though I did not mind him, yet I happened at his passing by me, to cast my eyes upon his face, and presently knew him, and cried, Oh! pray, sir, stay, you are one of my friends that must stay here. And I presently charged my guards to take charge of him. Saith the constable, he is my prisoner: Is he so? said I; then you have a very good prisoner, and pray look safe to him. And then when I went into the House of Lords I made out my charge against him.

RECORDER—Now if the prisoners have any questions to ask Mr. Bedloe, they may have free liberty to do it.

HILL—I never saw him before in my life.

LORD CHIEF JUSTICE—Do you know any of them?

BEDLOE—I know Mr. Berry and Green very well.

LORD CHIEF JUSTICE—Pray, Mr. Praunce, was the dark lanthorn at Hill's lodgings, or at the other place?

PRAUNCE—At the other place.

LORD CHIEF JUSTICE—Look you here, Mr. Praunce; they carried him to Hill's on Saturday night, and he lay there till Monday night: what time on Monday night was it that they removed him into Somerset-House?

PRAUNCE—I was not there when they did remove him.

LORD CHIEF JUSTICE—What time did you see him there?

PRAUNCE—About nine or ten o'clock.

LORD CHIEF JUSTICE—What time was it that you saw him there, Mr. Bedloe?

BEDLOE—It was after nine, my lord.

PRAUNCE—They had then removed him to Somerset-House, and Mr. Hill asked what they intended to do with the body? They said, they would carry it out that night; but they did not. But there the dark lanthorn was, and on Tuesday night they removed him back again.

ATTORNEY-GENERAL—Now, my lord, if you please, we shall go on to call some witnesses that were not present at the murder; for direct evidence, as to that, came only out of the mouth of some that were concerned in it; but to corroborate, by concurrent circumstances, the testimony which hath been already given. And first we shall call the constable, to prove that he found Sir E. Godfrey in the fields, in the same manner which Mr. Praunce says they told him they left him.

LORD CHIEF JUSTICE—Mr. Attorney, you promised you would prove, that when these persons were examined, they did deny before the House of Lords that they knew Praunce.

ATTORNEY-GENERAL—My lord, in that we were mistaken. I understand now, it was only Berry denied that he did know Girald.

LORD CHIEF JUSTICE—Why, did you never know Mr. Girald?

BERRY—Never in my life.

LORD CHIEF JUSTICE—Mr. Praunce, have not you seen Girald with Berry?

PRAUNCE—Yes, I have, but they usually went by several names.

LORD CHIEF JUSTICE—Did you ever see Girald in Hill's company?

PRAUNCE—Yes, that I have.

Brown, a constable, found the body of Sir E. Godfrey in a ditch, with his sword through him, and two handfuls out of his back. There was no blood. The sword had been run into the body in another place, but it had happened to strike against a rib, so that it could not go through. There was no blood there. He looked black about the breast; his neck seemed broken, his stick and gloves were on the bank-side, his servants said the sword was his own. He had a great deal of silver and gold in his pockets.

LORD CHIEF JUSTICE—Ay, ay, for they count theft sin, but not murder.

JUSTICE WILD—They left that, to let men think he murdered himself.

Skillard was the chirurgeon who opened the body. He saw the body the day after it was found; the breast was beaten with some obtuse weapon, either with the feet, or hands, or something. His neck was so distorted that you might have taken the chin and set it on either shoulder. There was one wound stopped by a rib, and another right through the body. He was not

killed by that wound, for then there would have been some evacuation of blood, which there was not.

‘And besides, his bosom was open, and he had a flannel waistcoat and a shirt on ; and neither of these, nor any of his clothes were penetrated.’

He is sure that his neck was broken.

ATTORNEY-GENERAL—Some have been of opinion that he hanged himself ; and his relations, to save his estate, ran him through ; I would ask the chirurgeon what he thinks of it.

Skillard says there was more done to his neck than ordinary suffocation ; what he saw was inconsistent with death being caused by the wound. He had been dead four or five days when he saw him.

Cambridge, another chirurgeon, gave evidence corroborating *Skillard*.

Elizabeth Curtis, Sir Edmundbury Godfrey’s maid, was called, and asked if she knew any of the prisoners.

ELIZABETH CURTIS—This man that I now hear called Green, my lord, was at my master’s about a fortnight before he died.

LORD CHIEF JUSTICE—What to do ?

ELIZABETH CURTIS—I do not know, but he asked for sir E. Godfrey.

LORD CHIEF JUSTICE—What time of the day was it ?

ELIZABETH CURTIS—It was in the morning.

ATTORNEY-GENERAL—What did he say?

ELIZABETH CURTIS—He asked for sir E. Godfrey, and when he came to him, he said, Good-morning, sir, in English, and afterwards spoke to him in French. I could not understand him.

RECORDER—I desire she may consider well; look upon him.

ELIZABETH CURTIS—That is the man.

GREEN—Upon my soul, I never saw him in all my life.

ELIZABETH CURTIS—He had a dark-coloured periwig when he was there, and was about a quarter of an hour talking with my master.

ATTORNEY-GENERAL—Are you sure this was the man?

ELIZABETH CURTIS—Yes, I am; and that other man, Hill, was there that Saturday morning, and did speak with him before he went out.

LORD CHIEF JUSTICE—That you will deny too?

HILL—Yes, I do.

LORD CHIEF JUSTICE—How do you know he was there?

ELIZABETH CURTIS—I was in the parlour at that time, making up the fire.

LORD CHIEF JUSTICE—Had you ever seen him before that time?

ELIZABETH CURTIS—No, never before that time. I went into the parlour to carry my master's breakfast, and brought a bunch of keys with me in, and there Hill was with him. And I went upstairs about some business, and came down again, wanting the keys, which I had left upon the table, and Hill was all that time with my master.

SOLICITOR-GENERAL—How do you know he was there?

ELIZABETH CURTIS—I was in the parlour, and stirred up the fire, and he was there a good while.

JUSTICE JONES—How long after did you see him again?

ELIZABETH CURTIS—Not till I saw him in Newgate.

JUSTICE JONES—How long was that afterwards?

ELIZABETH CURTIS—A month ago. But it is not the man that brought the note to my master.

ATTORNEY-GENERAL—What note?

ELIZABETH CURTIS—A note that a man brought to my master that night before.

ATTORNEY-GENERAL—What is become of that note?

ELIZABETH CURTIS—My lord, I cannot tell; my master had it.

ATTORNEY-GENERAL—Pr'ythee tell us the story of it.

ELIZABETH CURTIS—There was a man came to my master's house, and asked if sir E. Godfrey were within. He said he had a letter for him; and shewed it me; it was tied up in a knot. I told him my master was within, but busy; but, said I, if you please, I will carry it in to him. He did so, and I gave it to my master; when I went out again, the man stayed and asked for an answer: I went in again, and told my master, that the man required an answer. Pr'ythee, said he, tell him, I don't know what to make of it.

JUSTICE WILD—When was that?

ELIZABETH CURTIS—On Friday night.

JUSTICE WILD—When? The Friday night before he was murdered?

ELIZABETH CURTIS—Yes.

ATTORNEY-GENERAL—But you swear, that Hill was there the Saturday morning.

ELIZABETH CURTIS—Yes, he was.

SOLICITOR-GENERAL—In what clothes was he then?

ELIZABETH CURTIS—The same clothes that he hath now.

JUSTICE WILD—Are you sure they are the same clothes?

ELIZABETH CURTIS—Yes.

SOLICITOR-GENERAL—Here is a great circumstance, my lord. I asked her what clothes he was in, when he came to sir E. Godfrey's? and she saith the same that he hath now.

LORD CHIEF JUSTICE—Have you ever shifted your clothes?

HILL—No, indeed, I have not.

ELIZABETH CURTIS—But for the man that brought the note, I cannot swear it is he.

HILL—But she did say, when she came to see me in Newgate, that she never saw me in my life; and, my lord, I hope I have sufficient witnesses to prove where I was that morning.

LORD CHIEF JUSTICE—She says she cannot swear you were the man that brought the note.

HILL—My lord, I desire she will tell me about what time it was I was there?

ELIZABETH CURTIS—It was about nine or ten o'clock.

ATTORNEY-GENERAL—That agrees with Mr. Praunce's exactly in point of time. Now, if your lordship please, we will proceed, and call Mr. Lancelot Stringer, and Mr. Vincent.

RECORDER—My lord, we do call these witnesses to prove that these men had meetings with Mr. Praunce at the Plow.

Lancelot Stringer accordingly swore that he had seen Praunce at the Plow with Green and Hill several times before Sir E. Godfrey was murdered. Fitzgerald and Kelly were there as well. Hill and Green admitted that they had drunk with Praunce at the Plow, and that they knew Girald.

Vincent proved that Green and Hill and Berry had been at the Plow with Praunce; that Girald had been there; and that Kelly had been there with Praunce and some of the prisoners.

Cary remembered the meeting at the Queen's Head; he was sent for there, and a letter was given to him to carry to Mr. Dethick at Poplar. He took the letter to him and told him whom he came from, the gentlemen at Bow; Mr. Dethick sent back a message that he would be with them presently; so he came again to them, and they gave him sixpence and a glass of claret. There were three of them, of whom one resembled Mr. Praunce.

Praunce identified Cary as the man sent to Mr. Dethick.

William Evans, the boy of the house at the King's Head, remembered company there two or three months ago. They pulled out a paper and read it. Mr. Dethick was sent for, and came there. They had flounders for dinner, he could not say who bought them, and a barrel

of oysters. He observed and heard nothing, except that they pulled out a paper and read it, and named Sir E. Godfrey's name. 'And while I was at the door somebody threatened to kick me downstairs.'

Then *Sir Robert Southwell* was sworn.

RECORDER—Pray, Sir Robert, will you tell your knowledge?

SIR ROBERT SOUTHWELL—My Lord I was upon the 24th of December waiting upon his majesty in council, and Mr. Praunce was sent for, to speak his knowledge concerning this murder, and he then gave a general account of things, which, because it did relate to that bench, and this corner, and that room, and that passage and that gallery, it was not understood by the board, and thereupon his majesty thought fit to appoint my lord duke of Monmouth, and the earl of Ossory, and Mr. Vice-Chamberlain to the queen, to go thither, and take the examination upon the place, and report it to the board: and I, being clerk of the council, though not in waiting at that time, and having taken notice of what Mr. Praunce had there deposed, I did wait upon those Lords, and took the examination upon the place. And what I did take upon the place, This was done here, and that there, I drew up into a report, and the report is signed by those two noble lords, and was read that afternoon at the board; and to that I refer myself.

ATTORNEY-GENERAL—Pray, Sir Robert, did he shew the particular places to those Lords?

SIR ROBERT SOUTHWELL—Yes, he did. First, the bench whereon they were sitting when sir E. Godfrey was coming down; then the corner into which they drew him when they had strangled him; then the place where one Berry went to stay, which was at the stairs that lead to the upper court; then a little door at the end of the stables, which led up a pair of stairs, and at the head of the stairs a long dark entry, and at the top of those stairs, a door on the left hand, which being opened, shewed us eight steps, which lead up to the lodgings that were Mr. Godwin's; in which Hill was said to be inhabitant for seven years before. And as soon as we were gone two steps, there was a little closet or cabinet on the right hand, in which there was a bed, and there he shewed my Lords, This is the place where we handed him up first, and here we left him, said he, in the care of Hill for two nights.

JUSTICE WILD—You were there, Sir Robert, upon the place, when he shewed them these things?

SIR ROBERT SOUTHWELL—Yes, Sir, I was there.

JUSTICE WILD—Was it answerable to what he had declared to the king and council?

SIR ROBERT SOUTHWELL—Yes, it was answerable to all things he had said in the morning.

JUSTICE JONES—And suitable to what he says now?

SIR ROBERT SOUTHWELL—Yes, suitable to what he says now, but only now he says more than he said then. And as to what he says about the chambers of sir John Arundel, they could not be sir John's lodgings, for they were not capable of receiving a person of that quality.

PRAUNCE—I said, I did believe they did belong to sir John Arundel.

LORD CHIEF JUSTICE—They were lodgings, perhaps, that belonged to his servants, though not to him.

ATTORNEY-GENERAL—Sir Robert, I desire to know, whether Mr. Praunce, when he shewed these places, and made these descriptions, did he do it with any hesitancy, or did he do it readily?

SIR ROBERT SOUTHWELL—Hitherto, my lord, he went directly and positively, as if any body should walk to Westminster-hall door. But afterwards, when the lords did desire to know whither the body was carried, he said, it was into some room of the house by the garden; for this is an outer part of the house, which any body may do any thing in, without their knowledge that are within. And he undertook to lead them to the place as well as he could; and so away we went through the long dark entry that leads into the outer court of the great house; and crossing the quadrangle, he leads us to the Piazza, and down a pair of stairs, and so far, said he, I am sure I went; then as soon as we were downstairs, there is a great square court, then he began to stagger, as if he did not know his way; but there was no way but to go on, however, and on he went, and coming across the court, we came into several rooms; and going through them we came upstairs again, and so into several other rooms again. Sure, said he, we were here, but I can't tell, and he was in a distraction what room he saw the body in; but, said he, thus far I am certain I am right; which was according to the paper, and I refer myself to that.

JUSTICE WILD—But you say, that what he had said to the lords in the council, was the same that he said when you were by upon the place?

SIR ROBERT SOUTHWELL—Yes.

LORD CHIEF JUSTICE—His doubtfulness of the room does assert and give credit to his testimony, and confirms it to any honest man in England. Here, saith he, I will not be positive, but having sworn the other things which he well remembered, positively, he is made the more credible for his doubtfulness of a thing which he does not remember, which a man that could swear any thing would not stick at.

JUSTICE JONES—Besides, he was not there but by night, and all the light he had was a dark lanthorn.

Looking at his notes, the witness was able to say that Hill was examined before the council, and denied that he knew Kelly, but said he knew Girald.

HILL—I said I knew one Girald, but not that.

RECORDER—But before the council he said he knew Girald, not one Girald.

LORD CHIEF JUSTICE—This way of answering is like the examination that was taken lately amongst some of them. A person was asked when he saw such a priest? He denied that he had seen him in fourteen days. But then comes one and proves to his face, that he was with him in company all night, within a week and less. Ay, says he, that is true; but I said I had not seen him in fourteen days. And so they may take oaths to serve the king faithfully all the days of their lives, but in the nights they may murder him, and keep their oaths for all that.

JUSTICE DOLBEN—I would know, whether the Girald you know be a priest or no?

HILL—He is not.

JUSTICE DOLBEN—Then you do not know Girald the priest?

HILL—No, I do not.

RECORDER—Call *Mr. Thomas Stringer*; and he was sworn.

RECORDER—Pray, Mr. Stringer, will you tell my Lord and the jury what it was that Mr. Berry said about any directions he had to keep all persons out of Somerset-house, about the 12th or 14th of October last?

T. STRINGER—My lord, upon his examination before the Lords of the committee, Berry did say he had orders from the queen, or in the name of the queen that he should suffer no strangers nor any persons of quality to come into Somerset-house.

ATTORNEY-GENERAL—When was it he was to keep them out?

T. STRINGER—The 12th, 13th and 14th of October last.

ATTORNEY-GENERAL—What, three days?

T. STRINGER—Two or three days. And he said that the prince did come and he did refuse him, and sent him back again.

RECORDER—Did he say he ever had any such directions before?

T. STRINGER—No. He said he never before had any.

LORD CHIEF JUSTICE—It was a very unlucky thing that he had it then.

BERRY—The prince might have gone in if he would.

T. STRINGER—You said you did refuse him, you had order to let none come in.

LORD CHIEF JUSTICE—Had you any such order?

BERRY—Yes, my lord, I had such an order from the queen's gentleman-usher.

LORD CHIEF JUSTICE—Had you never had such before?

BERRY—Yes, I have had before, since the queen came to Somerset-house.

LORD CHIEF JUSTICE—Mr. Stringer swears you said you had not any before.

BERRY—Yes, I had.

LORD CHIEF JUSTICE—Why did you deny it then?

BERRY—I did not deny it; besides, there were several went in.

RECORDER—We have proved, indeed, five or six did go in.

LORD CHIEF JUSTICE—For how many days had you that order?

BERRY—Two days.

LORD CHIEF JUSTICE—Which two days?

BERRY—The 11th and 12th. I think thereabouts.

RECORDER—Did you say before the Lords, that you never had such orders before?

BERRY—No, I did not.

LORD CHIEF JUSTICE—Mr. Berry, when you were examined before the lords, did you not say you never had such orders before?

BERRY—No, I did not say so, my lord, as I know of; for they did not examine me about that.

LORD CHIEF JUSTICE—You said you would prove it under his own hand. Prove that.

ATTORNEY-GENERAL—Mr. Stringer, did he write his name to his examination?

T. STRINGER—Yes, he did to one examination.

ATTORNEY-GENERAL—Pray look upon that: is that his hand?

T. STRINGER—This was read to him before he signed it, and then he did sign it.

ATTORNEY-GENERAL—I would fain shew it to him, to see whether he would own it or no.

BERRY—Yes, that is my hand.

Then the Clerk of the Crown read it.

CLERK OF CROWN—This is subscribed by Henry Berry. ‘The Information of Henry Berry, porter at the gate of Somerset-house; taken before the right hon. the Marquis of Winchester: This deponent saith, that about the 12th, 13th and 14th of October last, he had order to tell all persons of quality, that the queen was private, and that they were not to come in: and this deponent saith, the queen continued so private for two days.’

LORD CHIEF JUSTICE—Where is that part of the examination wherein he said, he never had any such order before?

T. STRINGER—He did say so, but it is not in that that hath his hand to it.

JUSTICE WILD—Pray, my lord, observe this is a kind of reflecting evidence, and I would have no more made of it than the thing will bear.

LORD CHIEF JUSTICE—They only bring it, and make use of it against Berry as a pretence of his.

JUSTICE WILD—But it is a very reflecting evidence.

ATTORNEY-GENERAL—Surely there is no body here that offers it as such. We use it only to this purpose, to show that Berry, who was a party to this murder, did use all the means that he could to keep it private, and endeavoured to prevent strangers coming in that night to discover it; and therefore pretended these orders. If he had any such orders, I suppose he will

prove them, we do not say he had them ; but it is a great evidence, when he pretended to such privacy, that he and his fellows had something to do that was not fit to be known by every body.

RECORDER—He may make use of any body's name, and pretend what he will ; but I suppose he will prove it from the gentleman-usher if it be true.

Stephen Farr was called ; he said he was Berry's neighbour.

ATTORNEY-GENERAL—Pray then tell what you know.

FARR—I know him very well ; his wife hath been with me last week, and asked me if I knew what time he was with me on Wednesday the 16th of October. I desired time to recollect myself : and she called four or five times after, and I did recollect my memory and told her, that I was not with him all that Wednesday.

LORD CHIEF JUSTICE—Why, this was reasonable, and fair enough to do.

ATTORNEY-GENERAL—It was so, my lord ; but pray had you no money offered you ?

FARR—No, Sir, none at all ; and I told her I could not remember that I was with him that day.

BERRY—But you may remember it very well when I came from the queen I came to you.

FARR—My lord, I was out of town that Wednesday, from two o'clock in the afternoon till nine at night.

LORD CHIEF JUSTICE—Well, well, this is nothing : the woman was willing, if she could, to have counterproved the evidence, and what she did was fair ; she offered no money, nor did it in an indirect way.

This closed the evidence for the prosecution, and Hill proceeded to call his evidence.

Mary Tilden was Dr. Godwin's niece and housekeeper. Hill had lived in the family for eight years; they always left him in the house when they were absent from it, he was always a trusty servant, never kept ill hours, and always came home by eight o'clock at night, ever since they came over into England in April last. She was at home the night that Sir E. Godfrey was killed. Hill was not out after eight o'clock that night, he came in to wait at table, and did not stir out afterwards.

LORD CHIEF JUSTICE—Pray, what religion are you of? Are you a papist?

MARY TILDEN—I know not whether I came here to make a profession of my faith.

LORD CHIEF JUSTICE—Are you a Roman Catholic?

MARY TILDEN—Yes.

LORD CHIEF JUSTICE—Have you a dispensation to eat suppers on Saturday nights?

RECORDER—I hope you did not keep him company, after supper, all night.

MARY TILDEN—No, I did not, but he came in to wait at table at supper.

LORD CHIEF JUSTICE—I thought you had kept fasting on Saturday nights?

MARY TILDEN—No, my lord, not on Saturday nights.

JUSTICE JONES—How many dishes of meat had you to supper?

MARY TILDEN—We had no meat, though we did not fast.

He was at home on the Saturday night, and every night; when he came in she always sent the maid to bar the door.

LORD CHIEF JUSTICE—Maid, can you say he was always at home at night?

MARY TILDEN—I can say he never was abroad after eight at night.

RECORDER—Why, you did not watch him till he went to bed, did you?

MARY TILDEN—We were always up till eleven o'clock at night.

ATTORNEY-GENERAL—Was he in your company all that while?

MARY TILDEN—I beg your pardon: if your lordship saw the lodgings you would say it were impossible for any to go in or out, but that they must know it within. We were constant in our hours of going to supper; our doors were never opened after he came in to wait at supper.

LORD CHIEF JUSTICE—You may say anything to a heretic, for a papist.

JUSTICE DOLBEN—This is a mighty improbable business.

JUSTICE WILD—Where was he a Wednesday night?

MARY TILDEN—At home.

LORD CHIEF JUSTICE—They have a general answer for all questions.

JUSTICE JONES—Who kept the key of your lodgings?

MARY TILDEN—The maid.

JUSTICE JONES—Hath Hill never kept the key?

MARY TILDEN—No, my lord, the maid.

JUSTICE JONES—How do you know but that the maid might let him out?

PRAUNCE—My lord, Mrs. Broadstreet said at first there was but one key; but before the duke of Monmouth she said there were six or seven keys.

LORD CHIEF JUSTICE—Look you what tricks you put upon us to blind us: you come and tell us that he was every night at home by eight o'clock, and did not stir out, for there was but one lock, and the maid kept the key; and yet there were three or four keys to it.

MARY TILDEN—There was but one key to that which kept the door fast.

LORD CHIEF JUSTICE—Praunce, how many keys were there?

PRAUNCE—She confessed there were four or five.

JUSTICE WILD—What time was it that you carried him out of Somerset-House on Wednesday night?

PRAUNCE—It was about ten or eleven. Hill went to fetch the horse.

MARY TILDEN—We had never been out of our lodgings after eight o'clock, since we came to town.

JUSTICE JONES—When were you out of town?

MARY TILDEN—In October.

JUSTICE DOLBEN—Nay, now mistress, you have spoiled all; for in October this business was done.

JUSTICE JONES—You have undone the man, instead of saving him.

MARY TILDEN—Why, my lord, I only mistook the month.

LORD CHIEF JUSTICE—You, Woman (speaking to Mrs. Broadstreet), what month was it you were out of town?

BROADSTREET—In September.

LORD CHIEF JUSTICE—It is apparent you consider not what you say, or you come hither to say any thing will serve the turn.

MARY TILDEN—No, I do not, for I was out of town in September, I came to town the latter end of September.

LORD CHIEF JUSTICE—You must remember what you said, that you came to England in April last, and from that time he was always within at eight o'clock at night.

MARY TILDEN—Except that time we were out of town, which was in September, the summer-time. And it is impossible but if the body was in the house, as Praunce said it was, but I must see him, or some of us must. I used to go every day into that little room for something or other, and I must needs see him if he were there.

LORD CHIEF JUSTICE—You told me just now you were not upon confession ; and I tell you now so, you are not.

Then *Mrs. Broadstreet* was examined.

JUSTICE JONES—Well, woman, what say you ?

BROADSTREET—We came to town upon a Monday ; Michaelmas day was the Sunday following ; and from that time neither he nor the maid used to be abroad after eight o'clock : we kept very good hours, and he always waited at supper, and never went abroad after he came in to wait at supper : and the lodging was so little, that nothing could be brought in but they must know that were within.

LORD CHIEF JUSTICE—This is a lower room than the chamber, is it not ?

PRAUNCE—It is even with the dining-room, my lord.

LORD CHIEF JUSTICE—What say you, sir Robert Southwell?

SIR ROBERT SOUTHWELL—My lord, it is an extraordinary little place; as soon as you get up eight steps, there is a little square entry, and there is this room on the one hand, and the dining-room on the other I think; there is a pair of stairs to go down at one corner of the entry, as I think, but the body was laid in a little square room at the head of the steps.

LORD CHIEF JUSTICE—And must you go into the room to go to the dining-room?

BROADSTREET—No, it is a distinct room; but the key was always in the door, and every day somebody went into it for something or another.

LORD CHIEF JUSTICE—Will you undertake to say it was always in the door?

BROADSTREET—Yes, it constantly was.

JUSTICE WILD—For my own part, I will not judge you: but that his body should be carried there about nine o'clock at night a Saturday night, and remain there until Monday night, it is very suspicious, that if you were in the house, as you say you were, and used to go into that room every day, you must either hear it brought in or see it.

BROADSTREET—But we did neither, my lord.

JUSTICE DOLBEN—It is well you are not indicted.

BROADSTREET—Mr. Praunce, you know all these things to be false, Mr. Praunce.

PRAUNCE—I lay nothing to your charge; but you said before the Duke of Monmouth, that Hill was gone from his lodgings before that time.

LORD CHIEF JUSTICE—What say you, sir Robert Southwell?

SIR ROBERT SOUTHWELL—There arose a little quarrel between them, about the time that Mr. Hill did leave those lodgings. Praunce said it was a fortnight after; Hill said, when he was upon his examination, that the same Saturday night that sir E. Godfrey was missing, he was treating with his landlord, and from that time, to the time he went to his new house, it was about a week or a fortnight.

LORD CHIEF JUSTICE—But he did pretend he was gone before?

BROADSTREET—No, my lord, I did not.

LORD CHIEF JUSTICE—Two witnesses upon oath swore it, and you said it yourself, and gave it under your hand.

BROADSTREET—My lord?

LORD CHIEF JUSTICE—Nay, you will not hear, but you will talk; you say one thing now, and you set another under your hand.

ATTORNEY-GENERAL—Have you not a brother that is in the Proclamation, one Broadstreet a priest?

BROADSTREET—I have a brother, whose name is Broadstreet.

ATTORNEY-GENERAL—Is he not a priest, and in the Proclamation?

BROADSTREET—I hope I must not impeach my brother here. I said upon my oath, he came to town on Monday, and Michaelmas day was the Sunday following, and Lawrence Hill went away a fortnight after.

SIR ROBERT SOUTHWELL—She swore then, two or three days after Michaelmas day.

LORD CHIEF JUSTICE—You must know we can understand you through all your arts. It was not convenient for you at that time to say, that Mr. Hill

went away about a fortnight after Michaelmas, for then the thing that was charged to be done, part of it in your house, would have been within the fortnight, for it was the 12th of October, but then you said only two or three days.

SIR ROBERT SOUTHWELL—She did say, my lord, that about Michaelmas two or three or four days after he went away.

BROADSTREET—I beg your pardon, I only said I could not tell the time exactly.

LORD CHIEF JUSTICE—Well, have you any more to say?

MARY TILDEN—There was never a day but I went into that room for something or other, and if any body came to see me, there was so little space that the footmen were always forced to be in that room.

JUSTICE DOLBEN—Were you there upon Sunday?

MARY TILDEN—Yes, my lord, I was.

JUSTICE DOLBEN—Well, I will say no more; call another witness.

HILL—Catharine Lee.

LORD CHIEF JUSTICE—What can you say, maid?

LEE—My lord, I did never miss him out of the house at those hours.

LORD CHIEF JUSTICE—May be you did not look for him?

LEE—I did go down every night to the door to see if it were locked, and I went into the parlour to see that things were safe there.

LORD CHIEF JUSTICE—You are a Roman Catholic, are you not?

LEE—Yes, I am.

JUSTICE DOLBEN—Might not he go out of the house, and you never the wiser?

LEE—Yes, for I did not watch him continually.

CAPTAIN RICHARDSON—All that she says may be true by the place. The servants keep down a pair of stairs in the kitchen, and any one may come in, or go out, having so many keys, and they not know it that are below.

LEE—I went into the chamber every morning, as I went to market.

JUSTICE WILD—Have a care what you say, and mind the question I ask you: were you there on the Sunday, in that room where they say sir E. Godfrey's body was laid?

LEE—I cannot say that I was in that room, but I called in at the door every day, and I was the last up every night.

JUSTICE WILD—I will say that for thee, thou hast spoke with more care than any of them all.

Daniel Gray kept Hill company from the 8th of October till he took his house, which was about the 22nd or 23rd. The witness used to go to bed about 8 or 9; Hill went at the same time, but the witness did not see him go. Hill took his house on the 8th of October, but he did not go thither till the one or two and twentieth.

LORD CHIEF JUSTICE—Look you, Mr. Hill, he does you no service at all, for he says he left you about 8 or 9 o'clock at night, and he does not know what you did afterwards.

How met Hill on the 5th of October, who told him he was about taking a house, and asked

him to accompany him to the landlord to agree as to what must be repaired. On a Wednesday How began to work at the repairs, and worked at them twelve days and a half, and Hill was with him and his men, looking after coals, or beer, or something. On Saturday, the 12th of October, they dined together, and parted about 1 or 2 o'clock; Hill said he was going to Covent Garden, but he came back to the work after How had left it, but did not stay there. That was before 4.

LORD CHIEF JUSTICE—What religion are you of? Are you not a Protestant?

How—Yes, my lord, I think so.

RECORDER—My lord asks you, are you a Protestant?

How—I was never bred up in the Protestant religion.

PRAUNCE—He is a Catholic, my lord; he was the queen's carpenter.

JUSTICE DOLBEN—Nay, now you spoil all; you must do penance for this; what! deny your church?

RECORDER—If I am rightly informed by the clerks, he is outlawed for recusancy.

LORD CHIEF JUSTICE—Is he so? Pray let us know that.

HARCOURT (one of the clerks of the Crown)—My lord, I have made out several writs against him, for several years together, and could never get any of them returned.

HILL—My lord, he tells you I was with him from nine o'clock on Saturday morning, till one.

JUSTICE JONES—But that is as true as he is a Protestant, and how true that is, you know.

Cutler says Hill came into his house upon the 12th of October about four or five in the evening, and stayed till between seven and eight, when his wife came for him and said his supper was ready, and he went home.

Lasinby dined with Hill and How on the 12th of October; and saw him from five to seven on Wednesday night.

Archbold came to Hill's house on Monday night to look for one Gray, whom he found there.

So Mr. Gray asked me, what news? I told him very good news; for Praunce was taken for the murder of Sir E. Godfrey. Says Hill, I am glad of that; I wish they were all taken. I came the next day after, and they told me he was taken out of his bed, for the murder of Sir E. Godfrey.

LORD CHIEF JUSTICE—Was it that very night that you came, that he was taken?

ARCHBOLD—Yes, it was.

LORD CHIEF JUSTICE—You said he spoke of it, before you at 7 o'clock, and you left him about 9, and he was taken that night. What then?¹

HILL—Why then I had time enough to make my escape, if I had thought myself guilty.

LORD CHIEF JUSTICE—As no doubt you would, if

¹ There is some mistake here: Archbold's second visit must have been on Wednesday, not Tuesday, as he puts it, and in the report he has not mentioned the time of day of the second visit before.

you had thought they would have been so nimble with you.

ARCHBOLD—He knew it the day before.

*Ravenscroft*¹ knew Hill for thirteen or fourteen years when he was his brother's servant; afterwards he lived with Dr. Godwin, and married the witness's mother's maid.

LORD CHIEF JUSTICE—What religion are you of?

RAVENSCROFT—My father and mother were Protestants.

LORD CHIEF JUSTICE—But you are a Papist, are you not?

RAVENSCROFT—I have not said I am a Papist, yet.

JUSTICE DOLBEN—In the mean time, I say you are one.

RAVENSCROFT—Do you so? Then pray go to Southwark and see.

ATTORNEY-GENERAL—My lord, I think he hath taken the Oaths of Allegiance and Supremacy.

LORD CHIEF JUSTICE—Well, pray Sir, go on with your story.

He went to see Mrs. Hill at her new house, upon a Saturday, a little before Christmas, after he had heard that Praunce was taken upon the death of sir E. Godfrey; then—

I asked her what news? Says she, Here hath been a man here that tells us, that Praunce hath discovered

¹ This witness was called after Warriier, the next witness, being absent the first time he was called. I have here put his evidence into its proper place.

several of the murderers of sir E. Godfrey ; and they talk up and down strangely of it, and ask me whether my husband be acquainted with him? Then said I to her, Is he? She answered me, Very well, they have been often together ; and so she told me the people did mutter, and talk of her husband. But, said I, what says your husband to it? Says she, He defied Praunce and all his works. Said I, Where is your husband? Said she, He is within. I was very glad to hear it ; for, said I, he living in Somerset-House, and being acquainted with Praunce, I am glad to hear that your husband can be so courageous ; so I went away, and came again thither the next morning, and found he was taken the night before. All that I say then, is, that it was a good evidence of his innocency, that when he had notice of it, he did not fly.

LORD CHIEF JUSTICE—So then, your discourse was after Archbold had been there?

RAVENSCROFT—My lord, I have one thing more to say. Upon the occasion of these things, this woman hath been often with me, and hath desired to know of me what defence she should make, for I saw Hill's wife and Berry's wife were all simple people, without defence for themselves, and they did desire that I would examine and see some of the witnesses, and see how it was, and she had gotten me some papers, and I conferred them together, there are witnesses that will attest the copy.

ATTORNEY-GENERAL—What is all this to the purpose? Only this gentleman hath a mind to shew that he can speak Latin.

RAVENSCROFT—I thank God I can speak Latin as well as any man in the Court.

LORD CHIEF JUSTICE—Well, all this is nothing.

RAVENSCROFT—I declare it myself, if this man were guilty, rather than I would speak for him if there wanted a hangman, I would do it myself.

Green's witnesses were then called.

James Warriar was Green's landlord, and said that on the 12th of October Green was at his house from half-past seven till after ten. He remembered the day because of his work. A rather severe cross-examination follows by the Lord Chief Justice (very much like that of prosecuting counsel under similar circumstances to-day) as to how he remembered the particular date. He answers, 'By my work, and everything exactly.' He first particularly recalled the date to his mind a month after Sir E. Godfrey's murder; and it appeared that Green was first arrested, at a date which was not mentioned, for refusing to take the oaths, and was afterwards charged with Godfrey's murder on the 24th of December. Captain Richardson interposed to say that he had asked the prisoners what witnesses they had, and Green had referred him to his landlord and landlady, who, on being questioned, said 'that they could not do him any good at all.'

Mrs. Warriar was sworn.

LORD CHIEF JUSTICE—First consider what you say.

MRS. WARRIER—To tell you the truth, I thought the man was so clear of this fact, that I never troubled

my head with it ; but when captain Richardson came to my house, I told him, that he never was in our house by day-time, except being cushion-layer in the chapel, he used to come at half an hour after eleven, and many times he did desire me, because we were Protestants, to put in a little flesh meat with ours ; sometimes he would sit down and eat his meat in the kitchen, and his wife with him ; and his wife would say to him, It is a troublesome time, pray see that you come home betimes. I did not at all remember the day of the month at the first, nor the action ; but my husband and I have since remembered. We were desired by them once to eat a fowl with them ; and my husband did command me the Sunday after to invite them to dinner with us, and I went in the morning very early, I think, and bought a dozen of pigeons, and put them in a pye, and we had a loin of pork roasted ; and when he was gone to the chapel on Saturday in the afternoon, his wife came to me, and said, my husband is not well, and when he comes home will ask for something of broth ; and away she went to market, to buy some thing to make broth of. While she was at market, her husband came home, and asked where his wife was ? Why, Mr. Green, said I, she is gone to market : what an old fool, said he, is this, to go out so late, such a night as this is ! But said he, again I will go to the coffee-house, and drink a dish of coffee, and pray tell my wife so. In the mean time she returned, and by that time she had been above a little while, he came in again. And Mr. Green being there, my husband came in, and called to me, Pr'ythee, sweetheart, what 'hast thou got for my supper ? Pr'ythee, said I, sweetheart, thou art always calling for thy victuals when thou

comest in. Then Mr. Green goes to the stairs, and calls to his wife, and bids her bring him down some victuals, and she brings down the bread and cheese, and he stayed there till it was nine o'clock ; and then saith Mr. Green to his wife, Let us go up, for there is a fire.

LORD CHIEF JUSTICE—What day was this, all this while?

MRS. WARRIER—Why, it was the Saturday fortnight after Michaelmas day.

LORD CHIEF JUSTICE—Why might it not be that day three weeks?

MRS. WARRIER—It was that day he was missing.

ATTORNEY-GENERAL—Why, there was no alarm taken of it a Sunday.

LORD CHIEF JUSTICE—When did you begin to recollect what day it was, that they said he was missing?

MRS. WARRIER—On Friday morning our milkman came and told us that one Mr. Godfrey was found murdered ; now I knew one of the Exchange of that name, and thought it might be he. And when we went up with him to his chamber, we sat there till the Tattoo beat.

LORD CHIEF JUSTICE—All the thing is, how do you know it was this Saturday?

MRS. WARRIER—It was the Saturday fortnight after Michaelmas day.

JUSTICE DOLBEN—Are you sure it was the Saturday fortnight after Michaelmas day?

MRS. WARRIER—Yes, we did look upon the almanack and reckon it so.

JUSTICE DOLBEN—Then that was the 19th of October.

LORD CHIEF JUSTICE—Why, you told him you could do him no good, and indeed you do not.

Warrier's maid was then called and swore that Green came in on the 12th of October, and every other night he was in the house before nine o'clock.

LORD CHIEF JUSTICE—Well, Berry, what have you to say?

BERRY—I desire Nicholas Trollop, and Nicholas Wright, and Gabriel Hasket, and Elizabeth Wilks, and corporal Collet may be called.

Corporal William Collett placed a sentry at Somerset House on the evening of Wednesday the 16th of October. His company was at Somerset House when the king came from New-market, and the queen went to Whitehall. All his company went to Whitehall about three or four in the afternoon, but were commanded to go back again at night. By the order of a porter, not Berry, but one who used to give orders where sentinels should be placed, he placed Trollop at the Strand gate from seven to ten, and Nicholas Wright relieved him and stayed till one.

LORD CHIEF JUSTICE—Whereabouts did you set the sentinels? Within the gate?

COLLET—Yes, within the wicket.

LORD CHIEF JUSTICE—That way he was carried out?

NICHOLAS WRIGHT—There was no sedan came out in my time.

TROLLOP—There was one came in, in my time, while I stood there.

LORD CHIEF JUSTICE—Was it an empty sedan ?

TROLLOP—I suppose it was, but we had no order to keep any out.

JUSTICE WILD—But you might know whether it was an empty sedan or no, by the going of it through the wicket.

COLLET—There is an empty sedan that stands there every night.

TROLLOP—It was set down within the gate.

JUSTICE JONES—If any sedan had gone out, you would not have staid them, would you ?

COLLET—No, my lord, we had no order to stop any.

JUSTICE DOLBEN—How can you then be positive that no one did go out ?

TROLLOP—None did go out again in my time.

JUSTICE DOLBEN—Could not the porter open the gate, as well as you ?

COLLET—Yes, my lord, he could, but I should have seen him then. He did not open it in my time.

JUSTICE WILD—Let me ask you but one question : did not you go to drink nor tippie all that time ?

TROLLOP—No, nor walk a pike's length off the place of centry.

JUSTICE WILD—Has not Berry an house there hard by ?

TROLLOP—Yes, but I did not drink one drop.

JUSTICE DOLBEN—How can you remember so particularly, so long ago ?

TROLLOP—Why, I was twice before the committee.

JUSTICE DOLBEN—But how long was it ago that you were questioned about this thing, after this night?

TROLLOP—A matter of a month or six weeks.

COLLET—For we were examined before Praunce was taken up.

LORD CHIEF JUSTICE—You, Trollop, can you say whether it was the sedan that used to be within?

TROLLOP—No, I cannot, but it was brought in in my time, and did not go out again.

Gabriel Hasket relieved Wright at one; he did not drink at Berry's, and did not see him.

Elizabeth Minshaw was Berry's maid. He was within doors and about the gate when the queen went away, and as soon as she was gone he went out and played bowls. It was dusky when he came back, and he was not absent all night till he went to bed about twelve. He went through her room to go to bed.

MRS. HILL—I desire Mr. Praunce may swear why he did deny all this?

LORD CHIEF JUSTICE—Stand up, Mr. Praunce; that gentlewoman does desire to know what induced you to deny what you had said.

PRAUNCE—It was because of my trade, my lord; and for fear of losing my employment from the queen, and the Catholics, which was the most of my business, and because I had not my pardon.

MRS. HILL—I desire he may swear whether he were not tortured?

JUSTICE DOLBEN—Answer her; were you tortured to make this confession?

PRAUNCE—No, my lord, captain Richardson hath used me as civilly as any man in England ; all that time that I have been there, I have wanted for nothing.¹

LORD CHIEF JUSTICE—See what he says ; that he did not make this confession by any fortune ; but he made his recantation through fear, and the thoughts

¹ The story of Praunce being tortured forms, or was alleged to form, a part of the obscure and puzzling Meal-Tub Plot, which generally passes as a false plot designed by the Catholics to discredit Oates' Plot. It was set out in a pamphlet published by Elizabeth Cellier, who had been acquitted of treason in January 1680. The pamphlet was entitled 'Malice Defeated: or a brief Relation of the Accusation and Deliverance of Elizabeth Cellier ; Wherein her Proceedings, both before and during her confinement, are particularly related, and the Mystery of the Meal-Tub fully discovered.' As far as Praunce's torture is concerned, her story was that she and five women, of whom three were Protestants (she herself was a Catholic) were in the lodge at Newgate, where they 'all heard terrible groans and squeaks, which came out of the dungeon called the Condemned Hole.' They were told that it was a woman in labour, but on listening 'soon found it was the voice of a strong man in torture, and heard, as we thought, between his groans the winding up of some engine.' They were then told by an officer that it was a man on the rack ; but he would not say whether it was Praunce. They heard the groans perfectly to the end of the Old Bailey. Cellier was prosecuted for libel on 13th September 1680, convicted, fined £1000, and condemned to stand thrice on (which *per* Holt J. C. J. is the same as *in*, but better *in* and *upon*) the pillory, and to find securities for good behaviour during her life. When the reader has reached this point in the Plot trials, he is incapable of forming any opinion as to the truth or falsity of any of the facts related, and I hesitate to believe that Praunce was tortured merely because he swore he was not.

of death, because he had no pardon ; and fear that he might live in want, by the loss of the trade, prevailed with him to deny what he had confessed.

MRS. HILL—It was reported about town that he was tortured.

JUSTICE JONES—No, it was no such thing ; it was only the tortures of his conscience, for being an actor in so great a sin.

MRS. HILL—There are several about the court that heard him cry out. And he knows all these things to be as false as God is true ; and you will see it declared hereafter, when it is too late.

LORD CHIEF JUSTICE—Do you think he would swear three men out of their lives for nothing ?

MRS. HILL—I desire he may be sworn to that particular thing.

JUSTICE JONES—He is upon his oath already, and swears all this upon his oath.

MRS. HILL—Well, I am dissatisfied ; my witnesses were not rightly examined, they were modest, and the Court laughed at them.

BERRY—The centinels that were at the gate all night let nothing out.

LORD CHIEF JUSTICE—Why, you could open the gate yourself.

BERRY—He says he could have seen if the gate had been open, and that, as he saw, the gates were never opened.

JUSTICE DOLBEN—Well, the Jury have heard all, and will consider of it.

The *Attorney-General* made a short speech ; he had intended to have made a longer one, but the king's evidence had fallen out so much better

than he could have expected, and the defence of the prisoners so much weaker than he could have foreseen, that there was no need for it. He made a great point of the agreement between the evidence of Bedloe and Praunce; 'if they had laid their heads together to contrive a story, they could hardly have agreed in so many circumstances.' It was not to be expected that they should produce persons who had actually witnessed so secret an act; 'and I do believe, if Mr. Praunce had not had some inclination to change his religion, you had still been without so clear a discovery of this work of darkness, as now you have.'

MR. SOLICITOR-GENERAL—My lord, I would only make one observation to your lordship, which is this: I do not find they do in the least pretend to tax Mr. Praunce, that any person hath bribed him to give this evidence; nor that there was the least reward ever proposed to him to bear witness against them, not so much as the hopes of that reward contained in the king's Proclamation; yet Mr. Praunce, if he had had a mind to bear false witness, might have laid hold of that opportunity; but so far was he from pretending to discover anything, that he denied all when he was first apprehended. But after he was in hold, and likely to be brought to justice, and lying under the conviction of a guilty conscience, then, and not till then, does he discover it.

There is no objection in the world to be made, but since this discovery, Mr. Praunce hath retracted what

he said before, but he gives you a very good account of it; the terrors of conscience he then lay under, the fears that he should not be pardoned, and the apprehensions he had from the threats on their side, and the danger of his utter ruin, put him upon that denial.

But, my lord, he tells you likewise, That as soon as ever he was brought back to the prison, he owned all he had said at first, and desired he might be carried back again to testify the truth of what he had first sworn to. This, my lord, he gives you an account of, and the same account does the keeper of the prison give too.

He then points out that Praunce is confirmed by Bedloe, and to some extent by Sir E. Godfrey's maid, and goes on—

Mr. Praunce hath likewise told you of another circumstance, the meeting at the Plow alehouse, where they laid the whole design of entrapping sir E. Godfrey; and herein he is fortified by the concurrent testimony of the master of the house, and his servant too, though they now deny that ever they had been in his company there; or that they so much as knew Girald; though when they were examined at the council-board, they said they knew Girald, but not Kelly; and now they are pressed with it here, Hill retreats to this, that he knows one Girald, but not Girald the priest.

For the rest he draws attention to the agreement of Praunce's evidence and Bedloe's; and the detail of the former: 'it is impossible that

Mr. Praunce, a man of that mean capacity, should invent a story with so many circumstances, all so consistent, if there were no truth at the bottom of it.'

The *Lord Chief Justice* then summed up, repeating the story told by Oates and Praunce, and laying particular stress on the evidence of Hill's visit to Sir E. Godfrey. He then proceeds—

And it is no argument against Mr. Praunce in the world, that he should not be believed because he was a party, or because he after denied what he first said : First because you can have no body to discover such a fact, but only one that was privy to it : so that we can have no evidence, but what arises from a party to the crime. And in the next place, his denial, after he had confessed it, to me, does not at all sound as an act of falsehood, but fear. It is not a good argument to say that he is not to be believed because he denied what he once said ; for he tells you he had not his pardon, he was in great consternation ; the horror of the fact itself, and the loss of his trade and livelihood was enough to do it. But how short was his denial, and how quick was his recantation ! For he denied it before the king, not upon oath. He swore it upon oath, but he denies it upon his word only ; but by that time he got home to Newgate, with captain Richardson, he fell down on his knees, and begged him for God's sake to carry him back to the king, for what I did say at first, said he, is true, and this denial is false. And here could be no tampering, no contrivance made use of ; no, it is

plain there could be no art used to make him retract from his first testimony. And these are the particulars as to Praunce's evidence.

Bedloe's evidence is next summarised, and gives rise to the following observations—

And these two men, viz., Mr. Praunce and Mr. Bedloe, as the council have observed, had not any confederacy together, for they both swear that they never had any converse at all ; and if it be so, then it is impossible for two men so to agree in a tale, with all circumstances, if they never conversed together, but it must be true.

It is hardly possible for any man to invent such a story ; for Mr. Praunce it is, I believe. I find it is no hard thing for the priests to contrive such an action ; but for two witnesses to agree in so many material circumstances with one another, that had never conversed together, is impossible.

If all this had been a chimera, and not really so, then Praunce must be one of the notablest inventors in the world. And there must have been the mightiest chance in the world that Mr. Bedloe and he should agree so in all things ; and that the maid should swear that Hill was there that morning ; and that the constable should find the body, just as they told Praunce they had left him.

I would not urge this so, if I was not satisfied in my own conscience that the relation is true. In the prisoner's defence, there is but one thing that hath any sort of weight ; for the young gentlewoman talking of his being constantly at home at eight o'clock is nothing ; for she says they always go to

bed about nine o'clock, and they give no answer to this, but that it could not be done in their house but they must know of it; but do not shew how that must needs be; so that all their evidence is slight, and answers itself or else not possible to be true. All the testimony that is considerable in this matter is that which Berry produces; and that is concerning the centinels who kept the guard that Wednesday night the body was carried out; and he says there was no sedan carried out. And although this evidence be produced but by one of them, yet it is to the benefit of them all three; for if it were certain and infallibly true, that the centinels did so watch at the gate that no mortal could go out of the place, and if the darkness of the night might not hinder him from seeing what might go out, or that Mr. Berry's voice being known to him, he might not call to him, and so Mr. Berry might open the gate without any great caution, or more particular observation by the centinel, so that this might escape his observation or remembrance, and yet that the centinel be an honest man, and speak true, as he thinks, to his best remembrance, which I leave to your consideration. But there is one thing the other centinel tells you, that about eight or nine o'clock (for he went off at ten) there was a sedan brought in, and he did not see it go out; and so says he that watched from ten to one; and this is the only thing which hath any colour in it, in behalf of the prisoners. But he that says there was no body went out, says also, that he never saw the sedan; but the centinel that was relieved says that he saw it go in. Now how far that single testimony of Nicholas Wright the centinel will weigh, who says that none went out,

I leave with you, which may be mistaken, either by reason of the darkness of the night, or those other particulars I have observed to you.

But this is all that can overthrow the whole series of the evidence that hath been given by Mr. Praunce, upon whom I find not the least reflection, except you will call that one, which to me, as it is circumstanced, is rather an argument for him than against him, viz., his going off from what he said. And what sir Robert Southwell says is regardable, that when he shewed them the place where he was strangled, the house to which he was first carried, he did it very readily and confidently, but was puzzled to find out the room where he was removed when he saw him by the dark lanthorn, and would not positively assert where it was ; which shews the integrity of the man, who would else have gone through without boggling, for if all were a lie, why should he stick at one thing more than another, but have shewed some room or other? but when he was confident he appeared so, and when he was doubtful he appeared so, and so shewed himself an honest man.

He then concludes.

But I will tell you what there is that does not arise from these witnesses, but from the nature of the thing they were about and the persons that transacted it, that gives credit to the testimonies of the witnesses, so as to incline any one to believe them as things stand at this day, in reference to the known design of the priests to subvert our religion, for they must justify one ill by another, and the mischiefs they have done will not be safe, unless they do more.

And for the priest being the preachers of murder

and your sin, that it is charity to kill any man that stands in their way; their doctrine will make you easily believe their practice, and their practice proves their doctrine. Such courses as these we have not known in England till it was brought out of their Catholic countries: what belongs to secret stranglings and poisonings, are strange to us, though common in Italy. But now your priests are come hither to be the pope's bravos, and to murder men for the honour of his holiness: and as they are inhuman so they are unmanly too; for sir E. Godfrey had not been afraid of two or three of your priests, if they would have dealt fairly with him.

BERRY—He was a gentleman that I never spoke with in all my life.

LORD CHIEF JUSTICE—You must say and believe, as your priest will have you, and in such actions as these, as your priests suggest to you, so does the devil to your priests; if you are upon the matter necessitated to what they will have you think; for though your priests preach up freedom of will, yet they allow none to the understanding. They hold you may do good or evil, but will not suffer you to understand right and wrong, for you cannot be perfectly theirs, if you have any thing of your own to guide yourselves by.

I know that every body of that party is apt to say their priests own no such thing, but it is notoriously known to all the world, that they both print it, and practice it. What, shall any of you dispute the power of a pope? saith a Jesuit: or of a pope and council? say the most moderate priests. Have you power to say how far you will be a papist, and how far not? You may as well bound the sea, and bid it go thus far, and no farther, as limit the pope's

authority. I wonder any man should be of that persuasion, and yet keep his reason : much less turn from our religion to theirs, if he considers how they impose, and what mischiefs and blood you are involved in by your priests, that have alarmed the nation. For I will affirm, the greatest mischief the papists have received, comes from their priests, who have such unworthy and unmanly ways of setting up their religion. What ! Do they think it an act of charity to kill men ; or is the Christian Religion or yours to be promoted by such means as these ? No, gentlemen, it is the fault of your doctrine, and it is a monstrous mistake in you, if you think that you have any power of your own whilst you continue in their persuasion.

I know some will ascribe all to conscience that guides them, and that even these mischiefs are but the effects of their religious obedience ; but they are indeed the consequences of the blindness of their religious obedience. I wonder how any man can have the face thus to disorder a whole nation, and yet pretend conscience for it. Let no man tell me, O sir, we desire none of these mischiefs you talk of ; what, not if religion requires it, or if the pope says it does ? Hath not the Council of Lateran decreed that every popish prince ought to root out heresy upon pain of damnation ? You must : can you go and tell the pope how far you will believe, or what you ought to do ? You may as well tell me, that if he were once with us, and had the power he once had, he would leave us to ourselves, and that if he had the same ability, he would not have the same tyranny.

And therefore all the Roman Catholic gentlemen in England would do very well to consider how much

it concerns Christianity not to give offence ; and if they cannot at this time live in a Protestant kingdom with security to their neighbours, but cause such fears and dangers, and that for conscience' sake, let them keep their consciences but leave the kingdom. If they say, why should not we stay here, while we do no mischief? Alas, that is not in your power. You cannot be quiet in your own religion, unless you disturb ours ; and therefore, if to shew your conscience you acquit the country, and let the inconveniences light on yourselves only, I should then think you had zeal, though not according to knowledge ; and not ascribe it to any plot, but to the simplicities of understanding.

But, in short, there is a monstrous evidence of the whole plot itself by this fact ; for we can ascribe it to none, but such ends as these, that such a man must be killed ; for it must be either because he knew something the priests would not have him to tell, or they must do it in defiance of justice, and in terror to all them that dare execute it upon them ; which carries a great evidence in itself, and which I leave to your consideration ; having remembered, as well as I could, the proofs against them, and all that is considerable for them. Add to this the condition that we are in at this time, and the eagerness of the pursuit that these priests make to gain the kingdom, that, for my own part, I must put it into my litany, That God would deliver me from the delusion of popery, and the tyranny of the pope : for it is a yoke which we, who have known freedom, cannot endure, and a burden which none but that beast who was made for burden, will bear. So I leave it to your consideration upon the whole matter, whether

the evidence of the fact does not satisfy your consciences that these men are Guilty. And I know you will do like honest men on both sides.

The Jury then retired, and having returned after a short space, brought in a verdict of Guilty against all the prisoners.

LORD CHIEF JUSTICE—Gentlemen, you have found the same verdict that I would have found if I had been one with you ; and if it were the last word I were to speak in this world, I should have pronounced them Guilty.

At which words the whole assembly gave a great shout of applause.

On Tuesday the 11th of February the prisoners were brought up to receive sentence. They were then all sentenced to death by Mr. Justice Wild, who, as second judge in that court, pronounced the sentence in all criminal matters except High Treason. They were executed on the 21st of February, all denying their guilt till the last.

**COUNT CONINGSMARK AND
OTHERS, 1682**



COUNT CONINGSMARK AND OTHERS, 1682

(9, *STATE TRIALS*, p. 1)

*The trial of George Borosky, Christopher Vratz,
John Stern, and Count Coningsmark¹ for the
murder of Thomas Thynn.²*

The charge against the first three prisoners

¹ Count Coningsmark, otherwise Königsmark, was descended from a noble family of Brandenburg, a branch of which settled in Sweden. He was the elder brother of Aurora, the mistress of Augustus of Saxony, and the mother of Marshal Saxe. His brother referred to in this trial was the notorious lover of Sophia Dorothea, the wife of George I. After his acquittal Coningsmark achieved a distinguished military career, justifying his boast to Gibbons, and was killed at the siege of Argos in 1686.

² Thomas Thynne (1648-1682) succeeded his uncle, Sir James Thynne, in the possession of the Longleat estates. After first attaching himself to the Duke of York, in consequence of a quarrel with him he became a follower of the Duke of Monmouth. He was one of ten commoners who, with ten lords, formed a project of laying an information against the Duke of York as a papist in 1680. In 1681 he

was that on the 12th of February 1682, they

was a member of the Grand Jury for Middlesex who ignored the bill against Shaftesbury for treason. In 1681 he married the widow of Lord Ogle, the daughter of the last Earl of Northumberland, but she, being only fifteen, immediately withdrew to the Hague, where she met Count Coningsmark. Litigation connected with her husband's rights to her very considerable property took place, and at the end of the year she seems to have returned to her husband.

Thynne was chiefly remarkable as a fashionable rake, and as a man of wealth, which he acquired from his wife, and which procured for him the nickname of 'Tom of Ten Thousand.' Dryden, in describing Achitophel's popularity, refers to Thynne as Issachar—

'Each house receives him as a guardian god,
And consecrates the place of his abode;
But hospitable treats did most commend
Wise Issachar, his wealthy western friend.'

Absalom and Achitophel, 735-8.

Thynne was buried in Westminster Abbey, where his monument may still be seen on the north side of the south aisle. Dean Sprat is responsible for removing the original inscription and substituting the somewhat bald statement now visible; it may not be out of place to give the former as preserved in *Westminster Abbey*, vol. ii. p. 245. It is as follows:—

'Juxta hoc Marmor, immaturo Fato extinctus, jacet Thomas Thynne, de Long-Leate, in Agro Wiltonensi Armiger; Vir, illustri generi haud dispar, cui magnas facultates familia, majorem animum Natura dederat, Religionem a Romanensium corruptetis vindicatam, et jura Patriae, ac Civium Libertatem, non semel suae fidei a Comprovincialibus commissa, nec minus Majestatem Imperii Britannici, summo studio coluit et propugnavit. Uxorem duxit, Elizabetham, Comitissam de Ogle, Antiquissimae ut et illustrissimae Familiae de Peircy, Northumbriae Comitum, Filiam et Heredem unicam. Hinc illae Lacrymae, summae Felicitatis summâ Invidiâ semper est comes, in unius caput conjurarunt

shot Thomas Thynn in Pall Mall, acting at the instigation of Count Coningsmark.

Germanus, Suecus, et Polonus, Nomina Marmore indigna; quorum, duo erant e satellitis Caroli, Comititis de Conningsmarke. Heu! quam nefarium scelus moliebantur Homines ad vim, et caedem delecti. Cui Patrando unus non suffecerat populus, tres Armati, equis insidentes, et tenebris cooperti, unicum inermem, Curru sedentem, et nihil suspicantem, Quatuorque plumbeis adoriuntur globeis in viscera displosis, totidem emigranti Animae exitus aperuere. Sed Scelus a tergo sequitur Vindicta, sicarii non sine numine deprehensi manifesti criminis, quod Germanus jusset, Polonus exsequabatur, in subsidiis collato Sueco, Damnati laqueo omnes periere. Quin et ipse Comes de Conningsmarke, Sceleris non solum ut conscius sed et author postulatus, et a turpi fugâ retractatus, capitis iudicium subiit; verum Juratorum suffragiis crimine solutus evasit; in Quem tamen ex reis duo ad mortem usque facinus rejecerunt, tertius silere maluit.'—*Neale and Brayley.*

Which may be translated—

'Near this Tomb, snatched away by a too early fate, lies Thomas Thynne, of Long-Leate in the county of Wilton, Gentleman. He was a Man not unworthy of birth in a noble race; for the powers of his Mind he was indebted to his Ancestors, for the Loftiness of his Soul to God. With incessant Zeal he championed and cherished a Religion freed from the Corruptions of Rome, the Laws of his Country, the Liberty of her Citizens, which more than once had been committed to his Care by his fellow Freemen of Wiltshire; and in no less Degree the Majesty of the British Empire. He took to wife Elizabeth, Countess of Ogle, Daughter and sole Heiress of the most ancient and illustrious Family of Percy, Earls of Northumberland, *Hinc illae Lacrymae!* Extreme Envy is ever in the Train of extreme Prosperity. A German, a Swede, and a Pole, whose names would disgrace this Marble, conspired against his single Life; of these, two were the Creatures of Charles, Count of Conningsmarke.

They were tried before the Lord Chief Justice,

Alas ! what Wickedness was therein contrived by men well chosen for Violence and Murder ! To his ending one Race was unequal ; but three men armed and seated on horseback, in the Concealment of Darkness set upon one unarmed and sitting in his Chariot, suspecting no Evil ; and with four leaden Bullets which exploded in his Vitals, opened as many exits to his departing Soul. But Vengeance follows close on the Heels of Crime ; and the Assassins by Heaven's Will being apprehended fresh from their Crime, which the German ordered, the Pole executed, and the Swede was bribed to take part in, all perished, condemned on the Gallows. Moreover, the Count of Conningsmarke himself was demanded for Justice as being not only privy to, but the Originator of the Crime, and after being arrested in disgraceful Flight, was tried for his Life, but escaped the Penalty of his Act by the Decision of the Jury. Two of the accused implicated him in the Crime on the Occasion of their Death ; the third preferred to keep Silence.'

Lady Ogle's career is curious enough to be referred to. The daughter of the last Earl of Northumberland, she was born in 1667, and succeeded at the age of four to the honours and estates of the Percies, holding in her own right six of the oldest baronies in the kingdom. Her grandmother as her guardian refused an offer of marriage to her with the Duke of Richmond, when she was twelve, and a few weeks later married her to Lord Ogle, aged fifteen, and heir to the Duke of Newcastle. He died within a year, and she was then married to Thynne. He was murdered within a year and a half, in February 1681-2, and in May 1682 she married the Duke of Somerset. He held Court office under Charles II., and was second mourner at Charles's funeral, subsequently taking a conspicuous part at the funerals of Mary, William III., Anne, and George I. He lost the favour of James II., and helped to bring in William III. ; he became a leading favourite of Anne, but after repeated efforts on the part of Marlborough and St. John, was removed from the Council in 1711, though the Duchess remained Mistress of the Robes

Sir Francis Pemberton,¹ Lord Chief Justice North,² of the Common Pleas, and the Lord Chief Baron Montague.³

There appeared for the prosecution, Sir Francis Withens,⁴ Mr. Keene, Mr. Williams,⁵ and Mr. Thynne.

and Groom of the Stole. She incurred the wrath of Swift, who libelled her in 'The Windsor Prophecy,' reproaching her with her red hair and her alleged complicity in Thynne's murder, for which there seems to have been absolutely no foundation. The Duke took part in the proclamation of George I. as king, and was made Master of the Horse, but was dismissed two years afterwards. He was a man of slender parts but enormous pride, and deducted £20,000 from his daughter's inheritance because she sat down in his presence. The Duchess died in 1722.

¹ See vol. ii. p. 4.

² See vol. i. p. 5.

³ William Montagu (1619-1707) was educated at Sidney Sussex College, and called to the bar by the Middle Temple in 1641. He became Attorney-General to the Queen in 1662, and became Lord Chief Baron in 1676. He sat in one of the Popish Plot trials, and was called by Oates as a witness in his favour on his trial for perjury in 1685. He went the Bloody Assize with Jeffreys. He was removed in 1686 for opposing the king's wishes as to the abolition of the Test Acts.

⁴ Sir Francis Withens (1634?-1704) was educated at St. John's, Oxford, and called by the Middle Temple in 1660. He was elected to the House of Commons for Westminster in 1679, and before Parliament sat in 1680 presented the Abhorrer's petition, and was knighted on that account in April 1680. On the meeting of Parliament, however, he was expelled from the House for his conduct in this matter; a measure which, according to Roger North, he met with undue and cowardly acquiescence. He appeared as counsel in a

⁵ See footnote, p. 228.

Mr. Vandore was sworn as interpreter to

good many cases on behalf of the Crown about this time, particularly those of Fitzharris and Shaftesbury. When Dolben was dismissed in 1683, on account of his opposition to the Court in the *Quo Warranto* proceedings, Withens succeeded him, and sat as a judge in the trial of the Rye House Plot conspirators, Lord Russell and Sidney. He tried and sentenced Oates in 1685, and went the Bloody Assize with Jeffreys. He was dismissed in 1687 for refusing to pass a death sentence on Dale, a deserter. After the Revolution he was called on to justify his sentence on Oates to the House of Lords, and his judgment in that matter was pronounced erroneous. For this and other 'arbitrary and illegal judgments' he was excepted from the Act of Indemnity, 2 William and Mary, sect. 2, c. 10. He died in 1704, leaving a reputation for subserviency which his enemies seem to have done their best to counteract.

⁵ Sir William Williams (1634-1700), a native of Llantrisant, in Anglesey, was educated at Jesus College, Oxford, and called to the bar at Gray's Inn in 1658. He married the daughter of his lay client in one of his first causes, and became recorder of Chester in 1667. He was returned to Parliament by that borough in 1675, and attached himself to the country party. In 1680 he defended Smith against a charge of libelling Scroggs, supported by Jeffreys. At the beginning of the 1680 Parliament he was elected Speaker on the nomination of Lord Russell, and in this capacity presided over the debates on the Exclusion Bill, and reprimanded Withens and Jeffreys on their knees as 'abhorrrers.' After being re-elected to the Speakership in the short Oxford Parliament, Williams returned to his practice at the bar when that Parliament was dissolved within a week of its meeting. He appeared in numerous political cases of the time on the side of the persecuted Whigs, acting as Sidney's counsel, and giving him notes for his defence which are still preserved. He also argued against monopolies in Sandys' case, and defended Baxter in 1685, when he declined to make a speech before Jeffreys. In 1684 an information was laid

acquaint the prisoners with the charges made against them.

The indictment against them having been read, the judges directed that it should be interpreted, and the Clerk of the Crown, going near to the dock, read it deliberately to the interpreter, who repeated it to the prisoners.

against him for having, as Speaker, licensed the publication of Dangerfield's Narrative. In 1686 he was elected for Montgomery in the general election held on James II.'s accession, but as his election was cancelled, the House of Commons took no steps to protect him against the information, and he accordingly allowed judgment to go by default. He was fined £10,000, of which he paid £8000. He then made his peace with the king, and in December 1687 became Solicitor-General. In this capacity he prosecuted the Seven Bishops, for which he received a baronetcy, instead of the Chancellorship, of which it is supposed that his rival Jeffreys would have been deprived for his benefit, had he been successful. On finding that James did not intend to dismiss Jeffreys or call a Parliament, he left the Court party, just in time to be able to welcome William III., who refused to see him, and to be elected to the Convention Parliament by Beaumarais. He was a member of the committee which drafted the Bill of Rights, but lost the Solicitor-Generalship. He did not sit in William's next Parliament, but resumed his practice. He was re-elected for Beaumarais in 1695, and retained his seat and practice until his death. His connection with the Court is said to have been due in a large measure to his discovery that Jeffreys meant to achieve his ruin by prosecuting him for his acts as Speaker. His descendants are represented by the Williams of Bodelwyddan. Many papers collected by him were destroyed when Wynnstay was burned in 1858. Some of them were freely used by Howell in his State Trials. A few of his papers, including his brief in the Seven Bishops case, are still in existence.

Borosky was then called on to plead, and Sir Nathaniel Johnson was sworn as interpreter to take the pleas of all the prisoners.

Vandore said that *Borosky* had already pleaded Not Guilty.

LORD CHIEF JUSTICE—Then, sir Nathanael Johnson, if you can make him understand it, tell him that our manner of trial here is by twelve men, and that is by putting himself upon the country, and therefore ask him, how he will be tried. Tell him that the method is by saying, ‘By God and the Country.’

SIR N. JOHNSON—My lord, he is a very dull kind of man, he knows not how to answer, nor what to say; nor won’t say any thing, that is the truth of it.

LORD CHIEF JUSTICE—Ask him if he is willing to be tried after the manner of the English.

SIR N. JOHNSON—Yes, he says he is willing to be tried after the manner of the English.

LORD CHIEF JUSTICE NORTH—He hath pleaded Not Guilty, and the other follows of course.

LORD CHIEF JUSTICE—Ask the captain the same thing.

SIR N. JOHNSON—He desires a French interpreter, for he speaks French.

LORD CHIEF JUSTICE—Surely here are enough people that understand French, but ask him if he does not understand English.

SIR N. JOHNSON—He can understand some, he says.

LORD CHIEF JUSTICE—Then ask him whether he be Guilty or not.

SIR N. JOHNSON—He says he is Not Guilty, my lord.

Stern and *Coningsmark* were then called on to plead, and both demanded a mixed jury, which was allowed them, half English and half foreigners ; while *Coningsmark* demanded three or four interpreters, so that there might be no mistake. This also seems to have been allowed, but the interpreters were not forthcoming. *Coningsmark* then applied through Sir Nathanael Johnson, to have his case taken separately, and to have it postponed ; both of which requests were refused.

A jury was then called, it being arranged, in favour of *Coningsmark*, that there should be no Roman Catholics and no Danes on it, as his father had served against the Danes, the Poles, and the Papists. Challenges were frequent, the Crown challenging one juryman on account of his not understanding English, but withdrawing their challenge on the Lord Chief Justice explaining that he must point out to the prisoner 'what advantage the law gives him,' namely, that the Crown had to show good cause for their challenge ; the withdrawal being accompanied with the explanation that 'we challenged him because he did not understand English, which will be no reason at all.'

Mr. Keene then opened the indictment, and *Sir Francis Wühens* proceeded to open the case.

He explained that the case against the principals was that *Borosky*, whom he called

the Polander, Vratz, whom he called the captain, and Stern, whom he called the lieutenant, had joined together to kill the deceased gentleman, and that though it was the Polander who fired the fatal shot with a blunderbuss, the other two were present at the time, aiding and assisting him, so that if the Polander was guilty, the others were so too. As regarded the captain, he was a Swede, and had formerly been a retainer of Coningsmark's. He had been in England previously, but had come over on this occasion only some three weeks before the murder, lodging at King-street, in Westminster. He often discoursed of how he had a quarrel with Mr. Thynn, and on several occasions he ordered his servant to waylay his coach. On the day of the murder, Sunday the 12th of February, on hearing that Mr. Thynn was gone out in his coach, he immediately put on his boots, and ordered his servant to remove his clothes to the Black Bull in Holborn, to which house he said he was going to remove his lodging. When he left his house, the Polander went along with him, and they went to the Black Bull, where they met Stern. The party so composed rode out of the Black Bull about six o'clock, and after asking their way to Temple Bar they were seen to ride through the Strand to St. James's. As Mr. Thynn was passing through Pall Mall, about eight the same

evening, three persons came riding up to the side of the coach, and while one stopped the coach, another discharged a blunderbuss into it against Mr. Thynn, and gave him those wounds of which he died the next day. Immediately after the shot was fired the three assailants rode away, but one of them let fall the blunderbuss, which, being recognised as one that had been supplied to captain Vratz, led to his being sought out, and found lodging at a doctor's house in Leicester Fields. On his examination he did not deny that he was one of the three who were present at Mr. Thynn's murder, but pretended that he had intended to fight him in a duel, and kill him fairly, as he called it. It was not possible, however, that a man would go out to fight a duel and carry with him a second, armed with a blunderbuss; which would insinuate rather an intention of murder.

As to the Polander, he came over on Friday, and being landed, inquired for the young count's tutor, which was at an academy of one Monsieur Faubert; there he inquired for the count's secretary, and after lying there for a night upon Saturday, he was conveyed to the count's lodgings. The count ordered a sword and a coat for him, and he lay there on Saturday night, the night before the murder was committed. On Sunday a message came to the doctor, at whose house captain Vratz lay, that

the count wanted to speak with him. He went there, and took the Polander back with him to his own house, whence the doctor, the Polander, and the captain all went to the Black Bull, the captain being carried with as much secrecy as possible in a sedan chair.

As to Stern, the lieutenant, he was an ancient acquaintance of the captain's, who had told him, that if he would assist him as a brave fellow, he would maintain him, and he should not want money to bear all his charges; and proof would be given that he was the third person at the murder. But indeed, all these prisoners had confessed; the Polander that he had fired the blunderbuss, the two others that they were there with him; so that, if there were no more evidence, that would be sufficient, and perhaps more than might be expected in the circumstances.

For the fourth, gentlemen, Count Coningsmark, he is a person of great quality, and I am extraordinary sorry to find the evidence so strong against him, as my brief imports. I wish his innocence were greater, and our evidence less; for he is a person of too great quality, one would hope, to be concerned in a thing of this nature; but that he was the main abettor and procurer of this barbarous business, we shall prove upon these grounds: First, That he had a design upon Mr. Thynn's life; for, gentlemen, coming into England about three weeks before this matter was transacted, first, he lives in disguise and lives private, and removes his lodging from place to place frequently;

that he sent a person to inquire of the Swedish resident, whether or no, if he should kill Mr. Thynn in a duel, he could by the laws of England afterwards marry the lady Ogle? So that Mr. Thynn's death was in prospect from the beginning. Gentlemen, we shall prove to you, as I did in some measure open before, that the count himself was pleased to give express order, that the Polander should have a good sword brought him; that before he came into England, he was very much troubled, by reason of the stormy weather, for fear he should be cast away; that he lodged in his own lodging the night before this act was perpetrated; and that captain Vratz was the morning before, and immediately after, with the count. Another thing, gentlemen, I had almost forgot, The count was willing to be instructed in the laws of England, and inquired whether a man might lawfully ride out on a Sunday? and being told, That after sermon he might, he was very well satisfied; and the day he inquired of it was the day that the murder was committed. After the thing was done, count Coningsmark the next morning pretended he was to go to Windsor, and leaves his lodging; but instead of going to Windsor, being still in his disguise, he goes to Rotherhithe, by the waterside, and there, I think, he continues two or three days in a black peruke (and that is disguise enough for such a gentleman), and afterwards he goes to Gravesend; but I think he was on the water some time before he thought it convenient to land; and there he was surprised in this disguise. And when he was surprised and taken he shewed himself to be in great disorder, but being charged with the fact, acknowledged nothing of the matter. But how it should come to

pass that he should lie so long disguised, upon no pretence that can be known, and afterwards pretend that he had a business to that effect, and then he was to go into France, that will lie upon him to answer. But these are the inducing evidences that we give to you ; his keeping the Polander in his house, his disguising of himself, and his inquiring whether, if he killed Mr. Thynn, he might not marry my lady Ogle. His flight the next day, and pretending to go to Windsor, when he went quite the other way, and all in a disguise ; and these persons not having any appearance, or any reason whatsoever, for any particular quarrel to Mr. Thynn, but the count having some disgust to him upon terms that the witnesses will tell you of by-and-by, and being related to the count, we must leave it to you to judge, whether these gentlemen did it singly and purely upon their own heads, or whether they were not set upon it by the count.

Mr. Craven, who spoke Dutch and French, was then sworn to interpret to those of the jury who needed it.

Cole, Mr. Thynn's servant, had been with his master when he was coming up St. James's-street from the Countess of Northumberland's :¹—

And I had a flambeau in my hand, and was going before the coach, and coming along at the lower end of St. Alban's-street I heard the blunderbuss go off ; so upon that I turned my face back and saw a great smoke, and heard my master cry out he was

¹ The Dowager Countess, his wife's grandmother.

murdered. And I see three horsemen riding away on the right side of the coach, and I pursued after them, and cried out murder. I ran to the upper end of the Haymarket till I was quite spent, and was able to go no further ; and turning back again, my master was got into the house, and I understood he was wounded. That is all I know.

He did not see the faces of any of the three men ; this happened about a quarter past eight.

Ellers was another of Mr. Thynn's servants, his coachman apparently ; and as he came to St. Alban's-street, one of the three men who came up on the right of the coach called to him to stop, and called him a dog ; at the same time the blunderbuss was fired into the coach, and the three men rode away as fast as they could.

Hobbs gave an account of the wounds which Mr. Thynn had received, which were of a fatal kind, there being four wounds inflicted by four bullets.

White the coroner was called, and also gave an account of the wounds.

Here it occurred to the Lord Chief Justice that the Polander ought to have the evidence interpreted to him, which had apparently not been done. It was thereupon interpreted to him in a summarised form ; and then—

INTERPRETER—He says, my lord, he cannot tell how many bullets were in ; he did not charge it himself, but he fired it, he says.

SIR FRANCIS WITHERS—He confesses he fired then?

SIR W. ROBERTS—(the foreman of the jury)—My lord, the jury desire to know if the Pole can tell who did charge it?

LORD CHIEF JUSTICE—Ask him who charged it?

INTERPRETER—He can tell, my lord, he says.

LORD CHIEF JUSTICE—It will not be very material that, for his evidence can charge nobody but himself.

INTERPRETER—My lord, he says, the blunderbuss was given him by the captain.

Mr. Bridgman was called, and said he was one of the justices before whom the prisoners were examined. Sir John Reresby was present at the same time, and the witness offered to read the examinations.

LORD CHIEF JUSTICE—As to that, let it alone, if you please. *Mr. Bridgman*, when the Polander was examined concerning the murder, what did he say?

BRIDGMAN—He owned it to the best of my remembrance, but I refer to the examination if I mistake.

LORD CHIEF JUSTICE—Look upon it to refresh your memory, sir, and then tell us.

The witness was then instructed to confine his attention at first to what the Polander had said, and he said that the Polander owned that he came to England at the desire of Count Coningsmark.

LORD CHIEF JUSTICE—Speak only as to himself; for it is evidence only against himself.

SIR FRANCIS WITHERS—My lord, his confession is entire, and we can't separate it.

LORD CHIEF JUSTICE—But we must direct what is just and fitting. His evidence can charge nobody but himself; and that is the reason I would not have his examination read; for it cannot be read, but only against himself.

BRIDGMAN—Upon his examination he confessed that he was present when the captain stopped the coach; that he fired the musquetoen by the captain's order; and that before he did it the captain bid him, as soon as ever he had stopped the coach, to fire.

On this evidence being translated to the Polander, he again confessed that he did fire.

SIR FRANCIS WITHERS—Pray, sir, consider what was confessed by the captain.

BRIDGMAN—He confessed he had a design to fight with Mr. Thynn, and Mr. Thynn having several times refused to fight with him, he resolved to oblige him to fight by force, and therefore he had taken these persons along with him; that if he should fail in his revenge, or after the thing done he should be pursued, he might make his escape. He confessed he was there and stopped the coach, but the Polonian fired by mistake; for he did not bid him fire, but only in case he should be hindered from fighting or making his escape.

This was interpreted to captain Vratz, and the interpreter was told to repeat his answer.

MR. CRAVEN—He says it is very true that he was there, and that gentleman and the Polander along

with him as his servants, Mr. Thynn being a gentleman that had always a great many servants about him. And he says, my lord, that he received an affront from Mr. Thynn; upon that he challenged him, and sent letters out of Holland to desire him to to give satisfaction by fighting, but could have no satisfaction; and, therefore, because in England duels were forbid, he thought to make a rencounter of it, and took these gentlemen along with him, that if so be that Mr. Thynn's servants should assault him, or knock him on the head, or hinder him from escaping, that they might get him off.

In answer to the question what was the affront that he said Mr. Thynn had offered him?—

MR. CRAVEN—My lord, he says, that at Richmond he heard he spoke and gave out very ill language of count Coningsmark who was his friend, and a man he had many obligations to, and so of himself too, and he would never acquaint count Coningsmark with it, but would have satisfaction, and take the quarrel upon himself, being a gentleman; he says that he heard that he called him Hector, and gave such ill language as never was to be suffered.

SIR N. JOHNSON—And the fashion in Germany is, if they won't fight, to shoot them.

SIR FRANCIS WITHERS—How can you tell that, sir? The interpreter that asked the question says no such thing.

In answer to questions put to him by the Lord Chief Justice, the prisoner said that he had seen Mr. Thynn several times in the play-

house, and riding in his coach. He had no friend to send to Mr. Thynn, and he could not speak with Mr. Thynn himself; for Mr. Thynn might think he was not a gentleman good enough to fight with him. It was eight months since he received the last affront, which was before he went out of England. He could not send less than a gentleman with a challenge; and he had never a gentleman to send by, and so he sent his letter by the post.

Bridgman having looked at Stern's confession, said that he confessed that the captain told Stern that he had a quarrel with a gentleman, and that if he would assist him in it he would make his fortune. The captain gave him money to buy a blunderbuss. He confessed he was at the fact. He was about ten yards in front of the captain, and he heard him say, Stop the coach, upon which he turned round and saw the shot fired, and the other persons ride away, and he made away after them; and the captain further told him that he would give two or three or four hundred crowns to find a man that would kill Mr. Thynn. The captain desired him to get an Italian that would stab a man, and said that he would get two poniards for the purpose; and this was before the Polonian came over.

The Lord Chief Justice pointed out that this was no evidence against the captain, but ordered that it should be repeated to Stern; which was

done. And Stern denied that he said anything about four hundred pounds or the Italian. He was at the shooting, because the captain had entreated him to be there to be his second, to fight with a gentleman. He assisted at the loading of the musquetoon.

SIR FRANCIS WITHERS—Pray, my lord, let us know who it was assisted him?

LORD CHIEF JUSTICE—Why, that is no evidence against anybody.

SIR FRANCIS WITHERS—But, my lord, it was delivered to the Polander charged, and we desire to know who loaded it?

LORD CHIEF JUSTICE NORTH—That is no evidence; but yet the question may be asked, and then the jury may be told it is no evidence.

LORD CHIEF JUSTICE—But we must not let the jury be possessed by that which is not evidence.

LORD CHIEF JUSTICE NORTH—Pray, will you ask him, Mr. Craven, who helped him to load the gun?

MR. CRAVEN—The captain was by, he says, and that the captain and he did it together.

*Sir John Reresby*¹ was then called, and shortly

¹ Sir John Reresby (1634-1689) was the eldest son of a Royalist who died a prisoner in his own house in Yorkshire. He went abroad in 1654 for four years, and after a visit to England returned to Paris, where he became a favourite at Henrietta Maria's court. After the Restoration he became sheriff of Yorkshire and represented Aldborough in Parliament. He opposed Danby's impeachment, and drew up the Yorkshire petition of 'abhorrence'; but so carefully that no

confirmed the evidence that Mr. Bridgman had given.

Hanson was then called, and deposed that he had known Coningsmark for a matter of four years; he remembered his last coming into England, which was about a month since. His first lodging was at a corner-house in the Hay-market where he lodged for about a week, keeping his chamber all the time. When the witness came from Whitehall on Sunday evening he was admitted to see the count, who was going to bed; and a little after Dr. Frederick came in. He was sent for to meet the count at the Post-house, on his first arrival. The count sent for him under the name of Carlo Cusk. He was only known as the stranger at the lodging-house. The count sent for him from the corner-house, and the witness asked him if they were to have his company for some time. He said he was come over about some business, and was afterwards to go into France. He never told the witness what his business was.

offence could be taken. In 1681 he was again elected for Aldborough, and made a justice for Middlesex and Westminster. He was made governor of York in 1682, and assisted in the forfeiture of the charter of that city. In James's reign he sat for York, but grew lukewarm in the royal cause. He was made prisoner when Danby seized York for William III., but was soon released on parole. He is now chiefly remembered for his *Memoirs*, and an account of his early travels abroad.

His second lodging was at a corner-house, not above two streets off from the former. He continued there only a few days, because the chimney smoked so that no fire could be made. He lived there in the same manner that he did at the first lodging. Then he went to St. Martin's-lane, where he continued till he went away. The witness saw no company there but the doctor and captain Vratz. The witness could not remember that he saw Vratz there more than once; he believed that Vratz came to England before the count, because he saw him at the Post-house when he met the count.

MR. WILLIAMS—Pray, sir, have you carried any message from the count to the Swedish resident?

HANSON—My lord, I can say this upon my oath, to the best of my remembrance, count Coningsmark never charged me, or gave me any positive order to go to the Swedish envoy, but he did name the Swedish envoy to me, as if he were willing to know his advice; and so I, being obliged to pay my respect to the Swedish envoy, who had treated the young count and myself very civilly before; and so paying my respects to the said envoy, I did remember the conversation I had with the count, and spoke with the said envoy about this business, and that is all I can say.

SIR FRANCIS WITHERS—What was that message?

HANSON—I say there was no direct message, but this I say was the business; count Coningsmark told me in private familiar discourse that he had heard

that esquire Thynn had spoken some abusive language of him, and that he would fain know what the consequence of this would be if he should call him to account about this business. And he named the Swedish envoy to me; and I saw his desire was to know his opinion about the business, what the consequence of it would be; so I spoke to the Swedish envoy, and he gave me this answer, That if the count should any way meddle with esquire Thynn he would have but a bad living in England; but what the law would say in that particular case he could not answer, but he would inquire, and afterwards would give me an account; but I never spake with him after.

SIR FRANCIS WITHERS—I ask you because you have been formerly examined in another place about this matter; do you remember any thing that ever you heard the count speaking of fighting with Mr. Thynn?

HANSON—Count Coningsmark spoke to me in the German language: I spoke to the Swedish agent in French; and when I was before the king and council I spoke in English; therefore I desire no evil construction may be made of it. I cannot remember the count spake of killing or duelling. On the contrary, I can swear for count Coningsmark this, That I am confident he never told me that he had resolved or would fight with Mr. Thynn, or would call him to account, but if he should call him to account, what would be the consequence of it?

SIR FRANCIS WITHERS—Call him to account, about what?

HANSON—The count, in familiar discourse with me, did tell me, that he had heard esquire Thynn had spoken abusively of him.

SIR FRANCIS WITHERS—How had he spoken abusively of him?

HANSON—He reflected upon his person and upon his horse.

MR. WILLIAMS—Was there anything in that message about marrying my lady Ogle?

HANSON—That was the last part of the question, That if he should meddle with esquire Thynn, what the consequence might be, if the laws of England would be contrary to him in the hopes or pretensions he might have to my lady Ogle.

MR. WILLIAMS—You mince your words mightily; pray remember yourself. Did he speak of killing Mr. Thynn, or that Mr. Thynn should be destroyed?

HANSON—No, his phrase was, if he should have an advantage of him, or call him to account, what the consequence might be; I can say this upon my conscience.

SIR FRANCIS WITHERS—Sir, you are in a place where you are sworn to speak the truth, the whole truth, and nothing but the truth. What relation have you to count Coningsmark's family?

HANSON—I have no relation to the family at all.

SIR FRANCIS WITHERS—Are you not governor to the young count?

HANSON—The countess has given me her younger son, for me to be his companion in his travels.

SIR FRANCIS WITHERS—I ask you a plain question, let it lie at your door if you will not tell the truth; had you any conversation with count Coningsmark, wherein he did desire you to ask advice of the Swedish envoy or resident here, about duelling Mr. Thynn, or in case he should kill Mr. Thynn, or upon any such account?

HANSON—My lord, I say this was spoken in several languages, by the count in Dutch, by myself to the envoy in French ; and I do know I swore before the king and council ; but I cannot lay this to count Coningsmark's charge, for then I must forswear myself.

SIR FRANCIS WITHERS—Sir, you can answer me all my questions in English, if you please, what the discourse was.

LORD CHIEF JUSTICE—Pray sir, thus : What was the discourse, as near as you can remember it, between count Coningsmark and you, relating to Mr. Thynn ?

LORD CHIEF JUSTICE NORTH—Tell the whole truth, sir, for you are bound to tell the whole truth indifferently.

SIR FRANCIS WITHERS—And pray remember what you swore in another place.

HANSON—The count sent to me a note, that he had a mind to speak with me, and he entreated me with a familiar discourse about his travelling, and about the settling of his business, and thereupon he fell upon other discourse about Mr. Thynn, and, not to make mistake, having had time in my own chamber, I have put it down in writing, to satisfy my lord and all this honourable court, what I can say about this matter.

(Mr. Hanson reads. . . . " 'Tis very hard to give a true account ".)

LORD CHIEF JUSTICE—Read it to yourself, if you will, to give a true account ; and tell us the substance.

HANSON—If my words may not turn to the prejudice of my lord count Coningsmark ; but this is the substance of the thing. My lord, count Coningsmark did tell me in a familiar discourse, that esquire Thynn had spoken some reflecting words upon him ; he did desire to know if he did call him to account, whether in this case the laws of England might not go contrary to his design, in his pretention that he might have upon my lady Ogle. And in that familiar discourse he seemed to think that Monsieur Lienburgh could give him advice. In a little while afterwards, I was paying my respects to the envoy, and reflecting upon the count's conversation, I spoke to him about this business, and his answer was this ; he told me that if he should meddle with Mr. Thynn, he would have no good living in England ; but as to the particular question what the consequence of the law might be, he did not know, but would inquire and tell me ; but I never asked him any question about it afterwards. And if my conversation with the count, or with Monsieur Lienburgh, should turn to the count's prejudice, I should be answerable for it to God and my own conscience all the days of my life. I desire Mr. Thynn's blood might be revenged, but I also desire that innocent blood may be spared.

SIR FRANCIS WITHENS—Pray, sir, will you look upon that paper ? you signed it.

LORD CHIEF JUSTICE NORTH—Only to recollect your memory.

HANSON—I see there are expressions in this paper.

LORD CHIEF JUSTICE—Speak not what is in that paper, but what discourse (as near as you can) you had with count Coningsmark.

HANSON—My discourse with count Coningsmark

was this : in a familiar discourse, amongst other things, he spoke, that he heard esquire Thynn had affronted him, I do not know on what subject, but I believe it was words reflecting upon him and his horse ; he did not tell me that he desired me to go, nor did he give me any positive charge to go to the Swedish envoy, but by the discourse I had with him, I did understand that he was desirous to have his advice ; I thought his inclinations were that I should go and ask his advice. I did not go on purpose to do the message, nor did I receive any order that can be called a message, in my life to my remembrance ; but when I came to pay my respects in a familiar discourse, I did propose this to the envoy ; what might be the consequence if the count should call Mr. Thynn to account ; and he told me the same answer that I have already told you. Now this I desire only to consider, that it was spoken in divers languages ; and if a man should write down my expressions now, as they came from me, they would upon reading, perhaps, appear not so well ; so if these expressions of mine should turn to count Coningsmark's prejudice, as that I should swear that this phrase of killing or duelling was used, or that ever count Coningsmark told me that he resolved to call, or that he would call him to an account, I might do him wrong, perhaps ; but if he should call him to account, what might be the consequence of it.

SIR FRANCIS WITHERS—I would not entangle you, but only I would seek after the truth. I do not ask you positively, whether he did bid you go to ask advice of the Swedish envoy, that he did resolve so and so ; but did he discourse it thus, if he should duel him or fight him ?

HANSON—As I am before God Almighty, I cannot say I heard such expressions.

MR. WILLIAMS—Pray, sir, you confess you acquainted the envoy with it?

HANSON—Yes.

MR. WILLIAMS—Did you bring the envoy's answer to the gentleman or no?

HANSON—If I should be upon the Gospel, I am sure I cannot exactly tell what was the expression.

After a little more cross-examination as to what exactly it was that passed between him and the count, counsel passed on to the arrival of the Polander. As to which the witness said, that upon Friday the Polander asked for the count at M. Faubert's academy, that a man came with him whom he did not know, but should recognise if he saw him again. The Polander brought two letters, one for the count's secretary, and one for his steward in London; he said he had just come, and had had a long and stormy passage; he had not paid for his lodging, so the witness told him to go and do so, and to come back in the morning early. The count expected the Polander, and thought he had been drowned in the great storm; the witness thought he had heard the count speak twice of the Polander. The count had spoken of the stormy weather, and said he was afraid the Polander might miscarry about twelve or

thirteen days before. He said the Polander was 'a mighty able man, and understood horses,' and he had a mind to buy English horses, and intended to have this Polander as his groom, to dress them in the German way; and the witness went to 'Change to inquire whether the ship was lost. The witness took the Polander to the count the day after he arrived; the count asked him why he had been so long on the way, and the Polander said he had been at sea, and had been tossed up and down. The count told the witness the Polander was all naked, and he had nobody to send to buy him a riding-coat, so the witness told him he would very willingly and heartily do it, and he went out and bought one.

Then the count told me his man had never a sword, and I asked him how much his lordship would please to bestow on a sword; he told me a matter of 10s. or thereabouts. I told him I did not know where I should get such a sword, nor how to send for it, because I was to meet his brother; but I withal said, it is no matter for that, I will take care you shall have it this evening. I went into St. Martin's-lane, but could not find ever a sword worth a groat. Then I went as far as Charing Cross to a cutler whom I knew, so I told him, Sir, said I, I have a commission to bestow 10s. upon a sword for a servant, therefore, said I, I leave it to your discretion, use my friend well and yourself favourably too. I asked him when I should have the sword, he told me

in the evening ; I told him I would call for it when I came from the play, where I was to be with the count's brother. When I came back with the young count Coningsmark from the play, I called for the sword, but he (i.e. Howgood) told me it was not ready. I seemed to be a little angry, and told him that it was strange a gentleman could not get a little sword ready for him in a whole afternoon. Well, sir, said he, pray do not be impatient, I will send you the sword, and afterward he sent it to the academy, and I afterwards sent the sword to count Coningsmark's lodgings.

MR. WILLIAMS—Pray had you this direction for the sword after you had brought the Polander to the count, or before?

HANSON—Count Coningsmark did never give me any direction or charge but to buy a sword for him, but I did offer my service, if he pleased, because he said he had nobody to send.

MR. WILLIAMS—Sir, you do not know the question, or you won't apprehend it ; pray when had you this direction from the count to buy this sword?

HANSON—On Saturday in the afternoon.

MR. WILLIAMS—When was it you brought the Polander to the count?

HANSON—In the morning.

SIR FRANCIS WITHERS—Pray let me ask you another question. When was it you first heard Mr. Thynn was killed?

HANSON—I heard it, I believe, about eight o'clock in the evening on Sunday.

SIR FRANCIS WITHERS—Had you any discourse with the count about the murder?

HANSON—Yes, I had.

SIR FRANCIS WITHERS—Pray tell what that discourse was.

HANSON—I was at Whitehall till ten of the clock, and then I went to the count ; but I desire this may not be taken as an extraordinary visit, because I used to go to him on Sundays in the evenings, and those three Sundays before he was taken, I used to come to him in the evening, after I had been to Whitehall. When I came to his lodging I found him in his night-cap, and his night-gown ; he asked me what news ; I told him I could tell him great news, and that was of the killing of esquire Thynn, who was shot in his coach. The ambassador of Savoy had told me all that he had heard about it, and I told him. After I had spoken of this business, he asked me where his brother was ; I told him his brother was at the duke of Richmond's. And after some discourse I went away.

SIR FRANCIS WITHERS—When you told him of the murder of Mr. Thynn, did he make no answer, nor say anything about it ?

HANSON—He did not make me any answer by which I could conclude that count Coningsmark was any way concerned in the business.

SIR FRANCIS WITHERS—Pray, sir, I ask you upon your oath ; the count is a man of great quality himself ; when you told him of such an horrid murder, did he say nothing about it ?

HANSON—He asked me several questions what the people did say, but I would not make any mistake.

SIR FRANCIS WITHERS—Tell me all he said, sir, about it.

HANSON—I told him the greatest news I had was

the killing of Mr. Thynn ; and I told him the court were angry at it, that such an accident should happen ; and I said it was an Italian trick, not used in England.

SIR FRANCIS WITHENS—What said he then ?

MR. WILLIAMS—Pray do you remember what he said ?

HANSON—What I have answered now. He made me such questions upon this story as I have told you.!

LORD CHIEF JUSTICE—Let him explain himself. Pray, as near as you can, relate what discourse you had with count Coningsmark that Sunday night, after you came to him and told him of the murder.

SIR FRANCIS WITHENS—What did he say to you ?

HANSON—I will tell 'you, my lord ; the count was surprised, as every man would be, to hear of so sad an accident, and so the count asked me what the people said, so I told him what I heard at Whitehall. I cannot call to my memory all the particulars ; but I said the king was heartily sorry, and all the court, for so sad an accident, and I must wrong myself, or count Coningsmark, if I should undertake to relate exactly what passed, for I cannot remember it.

MR. WILLIAMS—But you said just now that you told the count it looked like an Italian trick, not used in England.

HANSON—Yes, I did so.

MR. WILLIAMS—What did he reply to that ?

HANSON—Not a word.

MR. WILLIAMS—Did he mention anything of fortifications to you then ?

HANSON—Yes, he gave me a plan, or a draught of a fortification done with his own hand, and that was all the discourse.

MR. WILLIAMS—So then he diverted the discourse to the business of fortification.

LORD CHIEF JUSTICE—The evidence is heard ; what is it that he ended all the discourse with, showing him a paper of fortifications ?

SIR FRANCIS WITHERS—But this he does say, he asked him what the people did say of it.

HANSON—For my life, I dare not say. I remember any more than I have told.

LORD CHIEF JUSTICE—Look you, sir, now will you in French deliver this for the benefit of those jurymen that don't understand English ?

MR. WILLIAMS—We pray, my lord, that our interpreter may do it.

LORD CHIEF JUSTICE—When a man can speak both languages he needs no interpreter, he is his own best interpreter.

MR. WILLIAMS—My lord, I will tell you why I ask it ; there is a great deal of difference, I find, where you examine a man with the hair, and where you examine him against the hair. Where you find it difficult to make a man answer, you will pump him with questions, and cross interrogate him, to shift out the truth ; now if you leave this man to the interpretation of what he hath said himself, he will make a fine story of it, and we shall never be the wiser.

LORD CHIEF JUSTICE—You may examine him in French, if you will.

MR. WILLIAMS—And I understand none but Pedlar's French.

SIR FRANCIS WITHERS—The truth of it is, what your lordship says, cannot be opposed regularly ; but what I do appeal to your lordship and all the judges,

and all the court, whether this man does answer like an ingenuous man ; you see he shifts.

LORD CHIEF JUSTICE—I do not see it, nor do I believe he shifts in anything you ask of him ; either he tells you what the question is, or the reason of it ; how far that is a reason is left to the jury to consider.

After a little more discussion, in which Lord Chief Justice North took an opposite view from that expressed by the Lord Chief Justice, it was agreed that the witness should be re-examined through the interpreter, and in the end, in answer to Sir Francis Withens, he gave a very brief summary of his former evidence, which the interpreter repeated.

In answer to Coningsmark, Hanson said that of all the times that he saw the count in his lodgings, he never saw him in his coat more than three or four times ; he generally saw him in his night-gown and cap. On the Sunday when he went to the count's lodgings, he was sick of the ague. One evening when the doctor came out from seeing the count, the witness asked him what the count was sick of, and the doctor said he had not told anybody that he was sick, or what he was sick of, but that he hoped in God in a short time he would be recovered.

In answer to another question of the count's, the witness repeated again what he had said before, as to how he came to speak to the Swedish envoy about the count's affairs.

LORD CHIEF JUSTICE—In plain English, did he ever direct you to go to the Swedish envoy?

HANSON—No, my lord, he never did direct me.

LORD CHIEF BARON—How came you to choose a foreigner to know what the laws of England are?

HANSON—I thought it would please the count to know his opinion.

LORD CHIEF BARON—But how came you to choose a foreigner, I ask?

HANSON—He has been nineteen years here in England, and sure he should know.

MR. CRAVEN—My lord, he asks him, if ever he told him that he had a design to fight Mr. Thynn, or to do him any prejudice, or send him a challenge?

HANSON—My lord, I am upon my oath, and this I say, I speak it before God and the court, count Coningsmark did never tell me that he had any mind, or did resolve to call esquire Thynn any ways to account.

John Wright met the Polander on Friday the tenth of February, the day he arrived in London; he took him to the lodging of Hanson, who said he must come again the next day betimes. The next morning accordingly he fetched the Polander, who took with him a sea-bed, a gun with a wheel-lock, and some other things, and they went to Faubert's, at the upper end of the Haymarket (Faubert being the 'horse-master, that teaches to ride the great horse'), and after the Polander had left his things at a house hard by, he went out and returned again in a little while

with Hanson. Then the Pole paid him for his trouble, and he did not see him again.

Dr. Frederick Harder had known the count four or five years, and Vratz a year and a half, or two years. Vratz was with the count, but whether he was with his companion or not, the witness could not tell. He lived with the count, and when the count came last into England, came over with him. About a month before, Vratz came to the witness and told him that the count wished to speak with him. The first lodging of the count was in the Haymarket, and was a corner house. He lived there privately, and nobody asked him his name. He desired to be private because he was to take some medicines, and he would not have it known. He had his own clothes, but he had a periwig, it was brown or black. At first the witness gave him no name, but afterwards the count asked him to call him by the name of Carlo Cuski.

The witness was with the count on the day on which Mr. Thynn was murdered, somewhere about nine o'clock at night.

MR. WILLIAMS—Did you receive any letter from captain Vratz at any time?

HARDER—I did upon Saturday morning, the Saturday before Mr. Thynn was murdered.

SIR FRANCIS WITHERS—Have you that letter about you?

HARDER—No.

SIR FRANCIS WITHERS—What was in that letter?

HARDER—He desired me to go to the count, who had a desire to speak with me. I came there, and had some speech with him about his indisposition. I told him he had better stay till next day before he took physic, because it was cold weather. And after that went with the Polander to my lodging, and the captain's man came in and then said, here is a man that will direct you to captain Vratz's lodging, which I did not know.

MR. WILLIAMS—Look you, sir, you say that you went to the count; did you show the count that letter from captain Vratz or no?

HARDER—The count saw it.

MR. WILLIAMS—Then hear a little. When was it you showed the letter to the count? Was it Saturday or Sunday?

HARDER—It was Saturday.

MR. WILLIAMS—Now, was the Polander then in the count's lodgings or no?

HARDER—Yes, he was.

MR. WILLIAMS—Was there any discourse about him?

HARDER—I had never seen him in my life.

MR. WILLIAMS—But was there any with the count?

HARDER—No, not at all.

SIR FRANCIS WITHERS—Then upon your oath, I ask you once more, Was the Polander ever in company with you and my lord at any time?

HARDER—No.

SIR FRANCIS WITHERS—Upon the Sunday, upon your oath?

HARDER—No.

SIR FRANCIS WITHERS—Nor the Saturday evening?

HARDER—No, I have not seen him since that morning when the captain's man took him along with me to his master.

MR. WILLIAMS—Pray how came the Polander into your company on Saturday morning?

HARDER—I had him from my lord's that morning.

MR. WILLIAMS—Then my lord and the Polander were together?

HARDER—No, they were not together.

MR. WILLIAMS—Was the Polander in my lord's lodgings?

HARDER—Yes, the Polander was below-stairs.

MR. WILLIAMS—And did you take him from the lodgings?

HARDER—Yes, I did.

MR. WILLIAMS—How long did he continue with you?

HARDER—Not at all; I went home with him.

MR. WILLIAMS—Had you no discourse with him?

HARDER—No, none at all.

MR. WILLIAMS—Where did you part with him?

HARDER—I brought him to my house; and when he was come in a-doors, the captain's man being there, I told him there was a man would show him the captain's lodgings; and he took him away with him.

MR. WILLIAMS—You say the captain's man had the Polander from you; pray name that man.

HARDER—I cannot tell his name.

MR. WILLIAMS—Was his name Berg?

HARDER—I believe it was.

SIR FRANCIS WITHERS—You say you delivered a letter from captain Vratz on Saturday morning to the count?

HARDER—Yes.

SIR FRANCIS WITHENS—Did the count read the letter, and tell you the contents of it?

HARDER—No, it was sealed.

SIR FRANCIS WITHENS—Did you know the contents of it then?

HARDER—No.

SIR FRANCIS WITHENS—Pray, when you delivered the letter from captain Vratz to the count, what did the count say to you?

HARDER—The letter was not written to the count, but it was writ to me.

MR. WILLIAMS—What was the reason that you showed it to him then?

HARDER—I received a letter from captain Vratz that the count desired to speak with me; and afterwards I was desired to direct this man, the Polander, to captain Vratz; and so I directed him to captain Vratz, and nothing more I know.

SIR FRANCIS WITHENS—Well, sir, one thing more and I have done with you; for you will not, I see, give a reasonable answer; pray, when the Polander came along with you from the count's, did you observe he had anything about him?

HARDER—He had a great campaign coat on.

SIR FRANCIS WITHENS—Did he seem to have anything under it?

HARDER—He had a portmantle under it, or some such thing.

In answer to questions from the count put by Craven, the witness said that the count was ill at the time he saw him, and that he had under-

taken to cure him ; he was giving him physic every day. He found him ill, lying down in bed on the day of the murder.

In answer to the Lord Chief Justice, he said that he had never heard the count speak any word that he had any design of any quarrel at all, nor any discourse except about his physic.

LORD CHIEF JUSTICE—Let me ask you this question, for they desire it here, what was the occasion and whether you know the occasion, why my lord altered his lodgings so often ?

HARDER—The first occasion was this ; because it was in the Haymarket ; and his man said it would be quickly known if he did continue there ; so he would take another lodging, which was in Rupert-street, and there he lodged three days ; but the chimney did so smoke, that my lord could not stay, because he could have no fire in his chamber and the weather was very cold, for it did snow, and therefore I told my lord it was not so proper for taking of physic ; thereupon he desired me to take him another lodging in Queen-street, which I did look about for, but it was not ready, so he had a lodging taken for him in St. Martin's-lane, where he lodged till he went away.

MR. WILLIAMS—Pray, sir, the physic that you gave the count, did it require his keeping within doors ? Might he not walk abroad with it, upon your oath ?

HARDER—It did require him to keep in.

MR. WILLIAMS—Pray then, how comes it to pass that the count could go so suddenly by water to Gravesend ?

HARDER—I do not know what was done afterwards.

The letter that Vratz wrote to him, and that he showed to the count, remained on the count's table. He did not keep it though it was his own; it was not of any concern.

LORD CHIEF JUSTICE—Can you remember what were the contents?

HARDER—He desired me to go to the count Coningsmark, who would speak with me, and that I would give his man an answer when I came from him.

SIR FRANCIS WITHERS—But what were you to go to the count to do?

HARDER—Nothing; but the count discoursed to me about his own body and indisposition.

SIR FRANCIS WITHERS—But captain Vratz was no physician; why should he send you a letter to talk about physic?

HARDER—It was nothing, but my lord would speak with me.

MR. WILLIAMS—We need not trouble ourselves with this fellow; he confesses he found the Polander in the count's house.

He found Hanson at the count's house on Sunday night; the captain came in and went out again. That was about nine o'clock; they had not heard of the murder then.

Hongood said he had sold a sword to the governor, a broad horseman's sword. That was on Saturday fortnight; he bespoke it about half an hour after six at night. When he came for the sword it was not done, and he was angry.

It was sent to the governor's lodgings at the academy.

Robert French said the count lodged in his house for three or four days between three weeks and a month ago, just ten days before the murder; he never saw him himself. He did not know his name. Captain Vratz lodged with him all the time. Dr. Harder used to come to him several times a day; he took the lodging for him, and said it was for a stranger.

Ann Prince was the maid at the lodgings in the Haymarket. The count lodged there for a month last Friday, till Wednesday; the witness saw nobody but the doctor come there. The captain lodged there; they never called the count by any name.

MR. WILLIAMS—Did the captain give him any physic?

LORD CHIEF JUSTICE—No, but the doctor did.

SIR FRANCIS WITHERS—He only asks a merry question.

LORD CHIEF JUSTICE—But we are now upon the life and death of a man; pray let us have these questions asked that are serious, not such light things as are permitted in ordinary cases.

Francis Watts was called.

LORD CHIEF JUSTICE—How old is the child?

WATTS—Fifteen years old last Christmas.

LORD CHIEF BARON—Ask him whether he understands what an oath is?

MR. THYNNE—He was sworn before the king and council.

LORD CHIEF BARON—If he were sworn before the king and council, he may give evidence here sure.

He was in the count's service eleven days, coming to him on a Friday, ten days before the day of the murder; his employment was to wait on the count, and his pay was sixpence a day and his diet. He saw the gentleman in a black periwig there coming very often to his master, every day. His master had three lodgings, one in the Haymarket, one in Rupert-street, and the last in St. Martin's.

MR. WILLIAMS—Who was in your master's company that morning before Mr. Thynn was killed?

WATTS—I came up, as I used to do in the morning to my master, and he asked me what was the matter with the bustle in the street? And I told him somebody was taken up upon suspicion of killing esquire Thynn.

SIR FRANCIS WITHENS—That was on Monday morning; but the Sunday morning before, what company did you observe there then?

WATTS—I cannot tell anything exactly of the Sunday morning.

He could not speak exactly to captain Vratz being there then. It was reported that Mr. Thynn was killed about eight o'clock. The news was brought by one of Lady Seymour's maids, who was telling the people of it below.

The gentleman in a black periwig came to his master's lodgings afterwards; he came in a great-coat, whether of cloth or camblet he could not tell. He spoke to nobody, but went straight upstairs. The witness stayed in the shop below about half an hour, and the man was still in the house when he left.

SIR FRANCIS WITHERS—Do you remember you had any discourse with the count, about riding on Sunday?

WATTS—He asked me on Sunday in the forenoon, whether people were suffered to ride about the streets on horseback on Sundays?

SIR FRANCIS WITHERS—This was that Sunday morning, was it?

WATTS—Yes. He asked me if they might be suffered to ride about the streets on Sunday? I told him yes, before sermon-time, and after sermon-time.

SIR FRANCIS WITHERS—About what time of the day was it that he had heard this discourse?

WATTS—About ten or eleven o'clock.

The Polander was with his master on Saturday. On Sunday morning a sword was brought to the lodgings, and it was taken upstairs, and the Polander afterwards had it below-stairs. It was sent by a porter from Mr. Hanson's. The Polander dined with his master's man and himself on Saturday. He lay in a garret in his master's chamber that night. When the Polander had the sword, he had boots, and a

new coat. He went away with the boots and the sword on Sunday morning.

LORD CHIEF JUSTICE—Ay, but your doctor that you examined before says, the Polander went away with him, and he was not there on Sunday morning.

SIR FRANCIS WITHERS—It is true, my lord, it was too tender a point for the doctor; he lies under some suspicion; and it is *proximus ardet* with him.

LORD CHIEF JUSTICE—Well, call him again. Look you, doctor, you were asked before, and now you are asked again, were you at count Coningsmark's lodgings on Sunday morning?

HARDER—I cannot certainly tell.

LORD CHIEF JUSTICE—When did you see the Polander at the count's lodgings, and whether was it on Sunday morning?

HARDER—On the Sunday morning I did not see him. The only time was when I was fetching him from my lord's; I have not seen him before nor since.

LORD CHIEF JUSTICE—Then call the boy again. Where did the Polander dine on Saturday?

WATTS—He dined with me and my master's man.

LORD CHIEF JUSTICE—Where?

WATTS—Below in the kitchen of our lodgings.

LORD CHIEF JUSTICE—Where lay the Polander that night?

WATTS—He lay in our garret.

LORD CHIEF JUSTICE—When went he from your master's lodgings?

WATTS—On Sunday morning.

MR. WILLIAMS—Had he an old coat or a new coat upon him?

WATTS—He had a new coat.

LORD CHIEF JUSTICE—Was the doctor with him?

WATTS—Yes, the doctor went away with him.

HARDER—I have not seen the Polander above once in my life.

SIR FRANCIS WITHERS—But were you at the count's on Sunday morning, or no, I ask you?

HARDER—I do not know whether it was Saturday or Sunday.

LORD CHIEF JUSTICE—But when you fetched him away, was it Saturday or Sunday morning?

HARDER—My lord, I cannot very well remember.

LORD CHIEF JUSTICE—Had the Polander a sword when you went away with him?

HARDER—I cannot positively say, but as travellers commonly have, he might have a sword.

SIR FRANCIS WITHERS—Now come to yourself and deal honestly, for you are upon your oath; I ask you, friend, this, you say he might have a sword; do you remember a pair of boots?

HARDER—No, I do not.

SIR FRANCIS WITHERS—Do you remember the coat he had uppermost?

HARDER—Yes, he had something under his coat, but I don't know it was his boots.

LORD CHIEF BARON—Had he a buff-coat under his campaign?

HARDER—Yes.

MR. WILLIAMS—Now, young man, I would ask you as to Monday morning; about what time on Monday morning did you come to your master's lodgings?

WATTS—It was a little between seven and eight o'clock, a little after seven.

MR. WILLIAMS—What condition was he in? Was he in bed, or up?

WATTS—He was up.

MR. WILLIAMS—What was he doing? Was he packing up?

WATTS—Not that I see.

SIR FRANCIS WITHENS—It was when he asked you about the hubbub in the street; pray tell what he said to you.

WATTS—He asked me what the matter was with the bustle in the street, and I told him that some were taken that had killed esquire Thynn; and I told him all the story as near as I could. He asked when esquire Thynn was murdered. I told him, the night before; but I did not mind anything that was done, but as I went downstairs, I met with a stranger, and he went upstairs, but I never saw my master after till he was taken.

SIR FRANCIS WITHENS—Did he ask you what Mr. Thynn was?

WATTS—Yes, and I told him, I heard he was a man of great estate, and well beloved, and that the duke of Monmouth was in the coach but a little before, and if he had not gone out, he had been killed too.

SIR FRANCIS WITHENS—What said the count to you, when you told him Mr. Thynn was well beloved?

WATTS—He said nothing.

SIR FRANCIS WITHENS—Can you remember who it was came to your master then?

WATTS—I know the man if I see him again.

SIR FRANCIS WITHENS—Do you know his name?

WATTS—No, I did not know his name.

MR. WILLIAMS—Were any of your master's goods carried away then?

WATTS—Yes.

MR. WILLIAMS—What goods were carried away then?

WATTS—Two portmantles.

MR. WILLIAMS—Who carried them away?

WATTS—My father carried them away.

MR. WILLIAMS—What time was it?

WATTS—Between eight and nine o'clock.

SIR FRANCIS WITHENS—It was time to be gone. How parted you and your master?

WATTS—The stranger did come in, and I never saw my master afterwards.

SIR FRANCIS WITHENS—What! did your master take no leave, nor say anything to you?

WATTS—No.

SIR FRANCIS WITHENS—What kind of periwig had he when he went away?

WATTS—He had a black periwig.

Thomas Watts, the father of the last witness, was employed two or three times to carry things for the count. The last time was the day after the murder was committed, when between eight and nine in the morning he carried a portmantle and a portmantle-trunk, and some other things. The count's man said they were to go to Windsor, and the witness carried them to Charing Cross, that they might be put into the coach there. But when the man came to Charing Cross, he and the coachman had some words, and he bid him open the boot, and he (? the coachman) took the things from the witness and put them into the boot. He made the count's acquaintance by

being Dr. Frederick's porter, and being sent by him to carry some things to the count.

Derick Raynes saw the count at his house at Rotherhithe in the evening of Monday. He did not know how he came there ; he was not at home when he came. He had black hair then. He stayed there from Monday till Thursday morning. On Thursday morning a waterman carried him by water to Deptford. The witness knew nothing about the count coming to his house in disguise ; but afterwards the count told him he was the count Coningsmark. He said he was desirous to go to Gravesend. The witness lent him a coat, stockings, and shoes.

SIR FRANCIS WITHERS—When you dressed him, why did he put on that habit?

RAYNES—He thought his own clothes were too cold to go upon the water.

SIR FRANCIS WITHERS—Had he no clothes before?

RAYNES—Yes, he had.

MR. WILLIAMS—You had the warmer coat, had you?

SIR FRANCIS WITHERS—Did he desire you to let him have your clothes, because he was in trouble?

RAYNES—He desired a coat of me, and a pair of stockings to keep his legs warm ; and when he had got them, his own shoes would not come on, so I lent him a pair of shoes.

SIR FRANCIS WITHERS—I do ask you, did he declare the reason why he would have those clothes was, because he would not be known?

RAYNES—He said he was afraid of coming into trouble.

SIR FRANCIS WITHERS—Why were you unwilling to tell this?

RAYNES—As soon as I came to know he was the man, I told him he should not stay in my house.

Richard Chappel first saw the count on Thursday, at ten in the morning, at Rotherhithe. The last witness brought him for him to carry to Gravesend. He rowed him in a sculler to Deptford, and the next day to Greenwich, and then to Greenhithe, and the next day to Gravesend. He was in the same clothes all the time. The witness was to have five shillings for every twenty-four hours. Raynes was with him in the sculler as far as Deptford. The count said he was a merchant, and that he bought jewels.

Mr. Kid had some information on Friday of where the count was; and on Saturday a man who had seen the notice in the *Gazette* told him that he believed the count was at a neighbour's house. He went to look for sir John Reresby, and Mr. Bridgman, but neither was at home; so they went to the recorder, and got a warrant there. Then they came to Rotherhithe by water, and Raynes and his wife were gone to Greenwich to carry his clothes, a grey suit, and other clothes that he had left.

So going down to Greenwich, we called every boat that was upon the river aboard of us, to know whence

they came. And we had taken her sister (Mrs. Raynes) along with us, and she called out her sister's name, Mall Raynes, and her brother's name, Derick Raynes, and so at last we got the boat wherein they were aboard of us. And we asked the man what he had done with the gentleman that lay at his house? He declared he was gone away, he did not know whither. So I went back again to the gentleman that gave me this first information, who did go to him as a neighbour, to know whither he was gone, and where he was to be found, and where he would land. So he declared the particulars: That if we missed him that night, we should have him in the Hope upon a vessel that was to be cleared upon Monday morning. So upon Sunday night, coming to Gravesend about eight or nine o'clock, or thereabouts, there we landed.

There were 13 or 14 Swedes at the same house where he was to land; so we thought it convenient to take him at his first landing, for fear of further danger. So I staid at the Red Lion back-stairs, and he landed at the fore-stairs, where the watermen were. As soon as he was laid hold of, I came to him; said I, your lordship shall not want for anything that is convenient. He desired to know whether I knew him; I told him, yes; and that his name was count Coningsmark. That is my name, says he; I do not deny it. So the mayor came, and the Custom-house officers searched him, and found nothing at all of any arms about him. He desired he might be used as a gentleman, and so he was; for there was no abuse given to him, as I know of. Coming up the river, the most of my discourse was about material affairs; a sergeant that had the command of a file of musqueteers, which the deputy-

governor sent to guard the count to Whitehall, a gentleman sitting there by me, was asking me concerning Mr. Thynn's murder; I told him that I was away at Newgate on Friday, and there I saw those that had done that barbarous fact. With that, my lord asked what lodgings there were at Newgate? And whether the captain had a good lodging? I told him a very good one. He asked me whether he confessed anything; I told him he had confessed some particulars. And, said I, it is the most barbarous thing that ever was done. Certainly, says my lord, this Mr. Thynn must have correspondence and commerce with some lady that this captain knew, that belonged to the court, or he would never have done it. As for the Polander, I told him that he had confessed; he wept mightily. With that, my lord seemed very much concerned, and took up his cloths and bit them, and sat awhile up, but was very much discomposed, and then desired to lie down.

SIR FRANCIS WITHERS—That was when you told him the Polander had confessed?

MR. KID—Yes, my lord was mightily out of his countenance.

Gibbons received the count as soon as he came on shore; he walked by him, and gave him a little kind of justle, his reason being to see whether he had not a black coat under his campaign coat. He went back a moment to speak to the watermen, and as soon as he returned the witness caught him fast by the arm; and the first words the count spoke to the witness were, What, do you come to rob me?

The witness explained that he was a king's messenger, that he had been waiting for the count for several days, and that the count was now his prisoner. When he named the count's name he gave a little start, and his periwig dropped off his face. They went up the street to the mayor, and the crowd was very rude and very rugged, but they did all they could to keep the people off the count. They carried him to the mayor's, and afterwards to an inn. They staid at the inn some two or three hours the next day.

After near upon an hour, my lord came to me and asked me my name; and he said, the reason was, that after his trouble was over he would give me thanks for my civility to him. Captain Sinkleer, who stood up, gave him my name before I could, that it was Gibbons. Yes, said I, my name is Gibbons, and I belong to the duke of Monmouth. Why, said he, the duke of Monmouth has no command now, and therefore how could I take him by his order? My lord, said I, I do not apprehend you by his order; you have killed a very good friend of mine, and had not Providence ordered it otherwise, you had liked to have killed a more particular friend, and a master. So, my lord, he seemed to be very sorry at that, but says he, I don't think they would have done any harm to the duke of Monmouth.

MR. WILLIAMS—Did he mention anything about a stain of blood?

GIBBONS—I beg your pardon, he did so.

MR. WILLIAMS—What did he say?

GIBBONS—Says he, it is a stain upon my blood ; but one good action in the wars, or one lodging upon a counterscarp, will wash away all that.

SIR FRANCIS WITHERS—Pray, sir, one thing more ; when you did speak to him of confession, did he say anything to you about captain Vratz ?

GIBBONS—Sir, he was only asking of me how things were, what the people said, or some such thing. I was not forward to tell him at first, but afterwards I did tell him, that the captain had made a confession, though it was a thing I did not know then. Says he, I do not believe the captain would confess anything.

This concluded the case for the prosecution, and the Lord Chief Justice proceeded to recapitulate to the count the chief heads of the evidence against him, and advised him to make any defence that he could. The count replied, through his interpreter, that he should like to take the various points which had been named in order : and accordingly a conversation ensued between him and the Lord Chief Justice, the latter apparently making no scruple to ask the prisoner any questions that occurred to him, which elicited the following story.

The count came to England because he heard there was likely to be an alliance between Swedeland, England, and Holland against France, and he wished to serve England, and to raise a regiment of horse there for the service of the king. He came *incognito* because he had a distemper upon his arms and breast, and had

formerly tried and employed Dr. Harder, and having experience that he was a very able man, he was resolved to lie privately ; for he could not drink wine or keep company till he was cured. His first lodging he changed because it was too cold for him ; his second because the chimney smoked. He liked the house so well that he sent to see if the chimney could be cured, but it could not ; otherwise he would not have left the house, and he could call the man and woman of the house to prove this. They were called accordingly, but they did not appear.

The Polander was taken into his service when he went to Tangier, when he went several thousand miles to do the king's service, and he designed to bring him into England to dress his horses in the German way. He thought the Polander had been groom to his uncle before.

LORD CHIEF JUSTICE—But to what purpose did he bring him thither ?

INTERPRETER—He says there was a great discourse about Strasbourg's being besieged. He did design to buy some horses, for every one did arm themselves ; and he says he sent over 1000 pistoles to be answered by the merchants here, to buy horses.

His brother, the young count, here came forward to prove that he had a bill of exchange for 1000 pistoles, and that he had bought one horse, and was to buy more.

INTERPRETER—My lord, he says he does fear that

the jury that do not understand English, do not understand his reasons for being in a disguise.

LORD CHIEF JUSTICE—Cannot he give an account of it himself?

MR. WILLIAMS—My lord, his evidence must be interpreted to them by the interpreter.

LORD CHIEF JUSTICE—The doctor's evidence hath been heard already about the same matter.

SIR N. JOHNSON—He desires, my lord, to know this, whether he may not say the same things over again to the jury in French? There are a great many persons of quality that understand it, and they will see whether he speak true.

LORD CHIEF JUSTICE—Let him, if he pleases.

SIR FRANCIS WITHERS—But then, my lord, I hope that your lordship will tell the jury it goes for nothing without proof.

Then the count spoke to the jury in French.

LORD CHIEF JUSTICE—My lord, I do not know whether the gentlemen that are of your right hand heard you or not.

JURYMEN—We do not understand French.

Then the count spoke it in Dutch; and the story continued through the interpreter.

The Polander was very much delayed by the bad weather. Letters came from Strasburg to Hamburg in seven days, and ships usually took eight days from Hamburg to London, a great deal less time than the Polander came over in. He had written four months before to fetch the Polander over. As to what he was said to have said to Hanson about Mr. Thynn's death, it was

impossible to give an account of common discourses, or to remember them so long after. He had no quarrel with Mr. Thynn, nor to the best of his remembrance had he ever seen him before. He never heard of Mr. Thynn having married lady Ogle until he was going to Strasburg six months before.

LORD CHIEF JUSTICE—Then it was before his last coming into England?

SIR FRANCIS WITHERS—My lord, his discourse with Mr. Hanson was not when he was last in town, but before.

As to his conversation with Watts, he said it was a very strange thing that he should ask a scullion-boy whether people might ride on Sundays, when he himself, over and over again, had rid on Sundays to Hyde Park, as many did.

Here major Oglethorpe and divers others testified that they had seen him riding divers times on Sundays in Hyde Park.

Sir N. Johnson then said that the count desired that he might be examined as to what he knew of the boy; and proceeded to relate how, having served under the count's father, he went to see him in Newgate, and found a little boy waiting outside the count's door, for his wages, as he said. He asked him what he knew of this business, and the boy said of himself that Vratz was in his master's chamber that night, and

that the Polander went out that night with a pair of boots under his arm. He asked the boy whom he served then, and the boy said he had no master then, but added of his own accord that Sir Thomas Thynn had promised him a place, and in the meantime he was to go to serve the Lord Privy-Seal. And then the count gave him 20s. for his wages.

SIR FRANCIS WITHERS—We observe what a sort of interpreter Sir N. Johnson is ; he speaks more like an advocate than an interpreter ; he mingles interpreter, and witness, and advocate together. I don't know what to make of him.

SIR THOMAS THYNN—My lord, I desire to be heard. I never spake to the boy in all my life.

MR. THYNN—Nor I. But he gave the same testimony he gives now, before the king and council.

As to Vratz, the count could not tell why he came to England ; that was a proper question to ask Vratz. The captain came to his chamber to pay him a visit, when he had taken cold, and was taking physic ; and he never reflected what any one came for. As to the Polander's coat, that was quite necessary, as all his clothes were torn.

And as for the sword, it was no more, he says, than what servants of his bulk and making used to wear.

SIR N. JOHNSON—He says all the servants of gentlemen in Germany wear such broad swords.

LORD CHIEF JUSTICE—You know it yourself, sir Nathaniel Johnson ; you have travelled there.

SIR N. JOHNSON—Yes, my lord, they do; and the Poles much broader and greater swords than the others. Here is one in court that hath a great broad sword now by his side.

When the Polander came over the count gave him to Vratz, because, as there was no hope of the alliance between England and Holland, he had no need of him. It was a common thing in Germany, though it might not be so in England, for a gentleman to give his servant away, if he had not need of him.

LORD CHIEF BARON—What, the next day that he comes over?

LORD CHIEF JUSTICE—What say you, sir Nathaniel Johnson?

SIR N. JOHNSON—Yes, my lord, it is very frequent in Germany to give a servant away if there be no use of him, for these Polanders are like slaves.

The Polander was sent over by a merchant of good repute, and he would not have sent him over, if he had had an ill repute in Germany.

LORD CHIEF BARON—Oh, sir, '*Nemo repente fit turpissimus.*' He could not be so ill a man at the first dash; he must be a man probable for such a service.

SIR FRANCIS WITHENS—You observe, my lord, how sir Nathaniel Johnson, who is interpreter in the cause, is a witness, and argues for the prisoner too.

MR. WILLIAMS—Pray, sir Nathaniel, is a rencounter the killing of a man after this manner?

SIR N. JOHNSON—A rencounter is another sort of thing, sir ; you don't speak as if you were a soldier.

MR. WILLIAMS—My being a soldier or not is nothing to the business ; but the captain said, he intended to have made a rencounter of it.

SIR FRANCIS WITHENS—But, my lord, we desire to take notice of sir Nathaniel's forwardness ; for it may be a precedent in other cases.

LORD CHIEF JUSTICE—What do you talk of a precedent ? When did you see a precedent of a like trial of strangers, that could speak not a word of English ? But you would fain have the Court thought hard of, for doing things that are extraordinary in this case.

The count then explained to the jury, in Dutch and French, the reasons for his sending for the Polander.

The *Lord Chief Justice* then suggested to the count that he had to explain his leaving in so secret a manner, and directing his clothes to be sent down as it were to Windsor ; to which he answered, through Craven, that Markham, a tailor, came and told him that on the killing of Mr. Thynn by the Polander and the captain, who were taken in the fact, there was a discourse about it that it might turn to his prejudice, 'and that the common people do commonly fall upon strangers,' and so his friends did counsel him that he should withdraw himself.

Then *Markham* was called, and stood up and sir N. Johnson said that he came to the count's chambers after Mr. Thynn was killed, on the

Monday morning, and told the count that he came from Mr. Hanson to tell him that the duke of Monmouth and several noblemen were looking for him ; to which the count replied that he knew nothing about it.

LORD CHIEF JUSTICE—But what did you say his friends advised him to do about it?

MARKHAM—I did say nothing of it.

(Then the count spake to him in Dutch.)

MARKHAM—That was afterwards.

LORD CHIEF JUSTICE—What was afterwards?

MARKHAM—I was told the people said, if he were taken he would be knocked on the head.

LORD CHIEF JUSTICE—What time afterwards was it?

MARKHAM—After he went away.

LORD CHIEF JUSTICE—Who told you so then?

MARKHAM—Mr. Hanson told me so then ; I would not tell a lie for all the world.

As to what he said to the men who arrested him, that he believed Vratz and the others would have done the duke of Monmouth no harm if he had been in the coach ; he said that the people told him when he was taken, that the murderers did follow the coach a great way, and would not do the action till the duke was out of the coach.

COUNT—They did tell me, the crowd were about me, that those that were taken said that they would not do it till the duke was out.

INTERPRETER—And he says that gave him sufficient

reason to say to Mr. Gibbons that he did believe they had no design upon his grace, the duke of Monmouth.

LORD CHIEF JUSTICE—He heard it so commonly, it seems. Now, my lord, there is one thing more that you should explain yourself in ; what you meant by this, when you said it would be a stain upon your blood, yet one noble act in war, or the lodging upon a counterscarp, would wash it off.

INTERPRETER—He says, my lord, that though he knew himself not guilty of anything, yet his being taken up on suspicion, and clapped up in prison, would be a great disgrace to him, and would be worse resented in his own country than the thing itself was ; it being not the custom of his country to take persons of his quality prisoners in that manner.

The prisoner, having no witnesses to call, was then allowed to address the jury, apparently in French and German, which were interpreted into English, for the benefit of those of the jury who spoke neither of those languages. He said that he was very happy that in all his trouble he was in a country where he had to appear before a Protestant judicature. His forefathers, under Gustavus Adolphus, were soldiers, and with their swords in their hands, and with loss of their blood, endeavoured to settle the Protestant religion in Germany, and protect it there.

It had been the honour of himself and his family that they had always been ready to venture their blood and their lives for the

advantage of the Protestant religion, as the example of his father and grandfather showed, and there was never anything done by his family but what was done for the honour of his country and his religion. He was always ready to serve the king of England; he loved the English people so well as always to be ready to do anything to serve them.

Sir Francis Withens then addressed the jury. He pointed out that the three principals had in fact confessed their guilt; but that nobody would suppose that they had committed such a horrible crime of themselves alone. Two of them, Vratz and the Polander, were members of the count's family, and Vratz was continually with him, not only till the murder was done, but afterwards. From the count's conversation with Hanson it was plain that he had an intention of putting Mr. Thynn's life in danger by quarrelling with him, and he wished to know what would be the consequences by English law of his killing him. The movements of the Polander are then sketched out in some detail, and the jury's attention is specially drawn to the fact that immediately after the murder Vratz had nowhere to go to but the count's lodgings. As to his flight, it was absurd to suppose that the count would not have known where to get protection from the people if he were really innocent. After mentioning the minor

incidents of his arrest, and his conversation with Kid and Gibbons, he concludes :—

My lord, I will not use anything of argument to persuade the jury ; but I cannot chuse but say, we know nowhere to go for the author of this villainous fact, nor whom to accuse as the prime contriver, but this count before you. I pray the God of Heaven to direct you in your inquiry ; and if I have said anything amiss, I beg your pardon for it.

(Then a great shout was made, which the Court rebuked the people for.)

Mr. Williams then addressed the jury, after which the Lord Chief Justice summed up ; contenting himself practically with recapitulating the points made against the count by the prosecution, and the replies made by the count, in pretty much the order in which they had been given in the trial.

The jury then retired, and returning after half an hour, gave a verdict of Guilty against the Polander Borosky, Vratz the captain, and Stern. The count they found Not Guilty.

On being asked what they had to say for themselves, Borosky said he prayed to God for mercy ; Vratz said he was never rightly examined, nor fairly tried ; and Stern said he did it for the captain ; he went as a second along with him. The recorder sentenced the three condemned prisoners to death in the usual form, and they

were all executed on the 10th of March following. Stern and Borosky each left a paper signed in his own hand; Vratz would make no confession, but persisted in denying what the others had owned; and died with great resolution, and no signs of fear or disorder.¹

After their sentences the prisoners were attended by Burnet,² afterwards Bishop of Salisbury, and Dr. Horneck, whom he associated with himself in order to communicate with the Polander. Stern made a very full confession, chiefly remarkable because it was published to the world by Burnet. From this account we learn that though Stern had followed the profession of a soldier for twenty-three years, up and down the world, he had led a much more innocent life than might be supposed from the conclusion of it. He never fell into those sins that are common among those that follow the wars; twenty crowns would pay for all that he took in the way of plunder; he was never guilty of any act of cruelty or treachery; he was never false at play, and had not the custom of swearing; he had had always a compassionate nature; he was

¹ They were hanged at the place of the murder, which, according to tradition, was in front of what is now the Naval and Military Club. Stern and the Polander were gibbeted; Vratz was buried. It appears that a wish to be buried was one of the motives which led Stern to make his confession.

² Vol. i. p. 92.

not a little lifted up with the courage that he showed on many occasions, and had been very sensible of all those things which are called points of honour. He had been at one time a Papist, but had always detested the idolatry that he saw in the practice of that religion ; and had recently returned to the Augsburg confession. For some weeks before he committed his crime he fell under a darkness and stupor of mind which he could compare to nothing but the sense a man has when he is half asleep. He was like one drunk on the day of the crime, though he was not drunk ; but he was resolved only to fight for the captain if there was need for doing so. His stupor continued till the second day of his imprisonment. He showed some anxiety as to the mental condition of the captain, and asked leave to see him, which he did in the presence of Dr. Horneck. He explained to the captain that he forgave him for having drawn him into the business, and exhorted him to repent ; but the captain fell into some passion, and said he lied, and gave him some other reproachful words, on which he left him. On the night before the execution, however, the captain sent him a message confessing that he had drawn him into this snare, and gave orders concerning his burial, on which he returned to the captain a message full of great affection.

Burnet could only communicate with the Polander through an interpreter; but he found that the previous course of his life had been very honest and innocent, and that before this murder he had never committed any enormous crime. He gave Burnet a fuller account of Coningsmark's proposition than is to be found in his written confession. He was much troubled by it, but after saying the Lord's prayer, finding that his mind was not fortified by it against the murder, concluded that it was appointed that he should do it. Besides he was brought up in such an opinion of his duty to his master, that when the count told him that Mr. Thynn had hired six assassins to murder him, he considered that he ought to help him to avenge himself. He was also deluded by the captain assuring him that if they were taken, he only, and not the Polander, would suffer for it.

Vratz contradicted all that the others had said. He considered that it was enough if he confessed his sin to God, and that he was not bound to make any other confession, and he thought it was a piece of Popery to press him to confess.

Dr. Horneck also published a full account of his conversations with the prisoners, which does not add much to Burnet's, except that it appears that Vratz made a bolder theological defence to the latter than to the former. He said that

he knew that they wanted him to implicate the count, which falsehood he would never be guilty of.

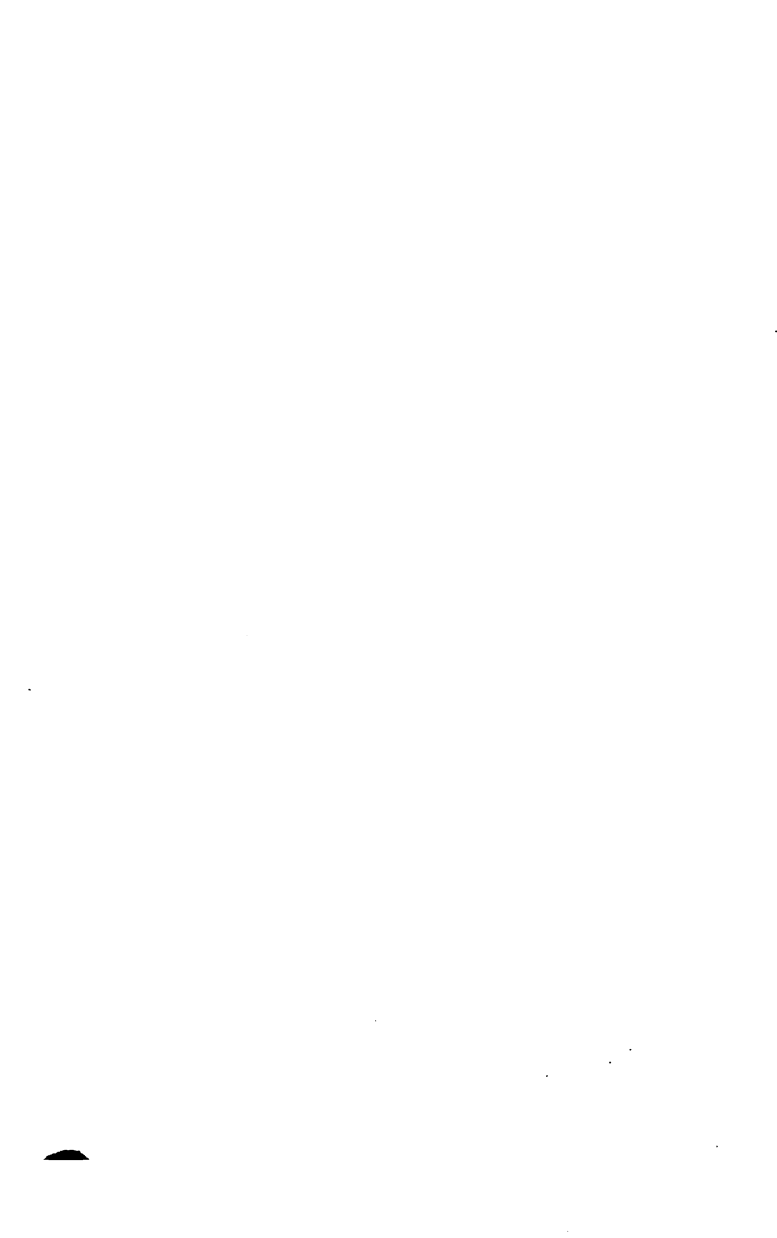
Stern composed a long written confession addressed to every class of person, in various heads, from the governors of the world down to prisoners, giving some account of the murder, but making no reference to the count. For his own part he says :—

Lastly, I have had a peculiar love for three things, yet have been most miserably cheated by them ; yea, these three were instruments I made use of, that day I came into the late misfortune. I thought I had an excellent friend in the captain, but have been sadly deceived in him, and seduced by him, that is one thing. Secondly, I have been no hater of women, and here also I have been cheated. I have also had a great love for horses, and when that late misfortune began, was on the back of one.

The Polander made a short confession, implicating both the count and the captain.

The captain made no written statement at all.

ROBERT FEILDING, 1706



ROBERT FEILDING, 1706

(14, *STATE TRIALS*, 1327)

ROBERT FEILDING¹ was indicted before Powell J.² at the Old Bailey, on the 4th of December 1706,

¹ Robert Feilding, commonly called Beau Feilding, was born about 1651, and seems to have owned some property at Lutterworth. He made himself conspicuous at the court of Charles II. by his amours, married a daughter of Viscount Carlingford, and at one time commanded a regiment. He afterwards married the daughter of Lord Clanrickard, the widow of Lord Muskerry and Lord Purbeck. He became a Catholic, followed James II. to Ireland, and sat in the Parliament there in 1689. He afterwards went to Paris, but returned to England in 1696, two years after which his wife died. He lived at the court of Queen Anne on his reputation as one of the rakes of the Restoration, and it was under these circumstances that the events recorded in this trial took place. After the trial, and a period spent in the Fleet, he lived in Scotland with his wife, Mary Wadsworth, and died there in 1712. His reputation was sufficient to attract the notice of Steele, who described him as Orlando in the *Tatler* (Nos. 50 and 51), and of Swift, who mentions him in several of his writings. His conduct in the events leading to his trial seems to have been consistent with what else is known of his behaviour.

² Sir John Powel, not to be confounded with a contemporary judge of the same name, was born in Gloucester in

for having married her grace the Duchess of Cleveland,¹ his first wife, Mary Wadsworth, being then alive. He pleaded Not Guilty, and Mr.

1645, called in 1671, and represented his native town in the House of Commons in 1685. He was made a serjeant at the Revolution, and a Baron of the Exchequer in 1691. He was moved into the Common Pleas in 1695, and the Queen's Bench in 1702. He died in 1703. He was one of the majority of the judges who decided *Ashby v. White*. He is described by Swift in a letter to Stella of 5th July 1711, as 'an old fellow with grey hairs, who was the merriest old gentleman I ever saw, spoke pleasing things, and chuckled till he cried again.'

¹ Barbara, Duchess of Cleveland, was the daughter of Lord Grandison, who fought for the king at Edgehill, and was mortally wounded at the siege of Bristol. In 1659 she married Roger Palmer, who was shortly afterwards created Earl of Castlemaine. Her intimacy with Charles II. began immediately on the Restoration, and for the next fourteen years she was the centre of all the chief political and other intrigues of the court. Her chief political achievements were the ruin of Clarendon, and the introduction to public life of Sir Henry Bennett, afterwards Lord Arlington. Her lovers included many celebrated and other men, among whom the most interesting to the present generation were John Churchill and William Wycherley. She collected and dissipated enormous sums of money, and in 1670 was created Duchess of Cleveland, from which two facts Cleveland Court, Cleveland Square, and Cleveland Row derive their names. She also received and dismantled Nonsuch House in Surrey. She was superseded in the king's favour by the future Duchess of Portsmouth, but retained a certain degree of power till the end of her life. Her husband died on 21st July 1705, and she married Feilding four months afterwards. In July 1706 he was committed to Newgate by Holt for threatening and maltreating his wife. The Duchess was of course the real prosecutor in his trial.

Raymond¹ having opened the indictment, Sir James Montague² opened the case.

After explaining that as the prisoner could not be represented by counsel he would confine

¹ Robert Raymond was born in 1673, being the son of Sir Thomas Raymond, who was a judge in each of the three courts. His father procured his admission to Gray's Inn when he was nine years old; and after diligently frequenting the courts for eleven years more he began his Reports at the age of twenty. He was called in 1697, and obtained a considerable practice. He represented Bishop's Castle in the House of Commons in 1710 and 1714, being made Solicitor-General in the former year. He was deprived of office on George 1.'s accession, but represented Ludlow and Helston in the Parliaments of 1715 and 1722. He became Attorney-General in 1720, and became a serjeant and a judge of the King's Bench in 1724, and Chief Justice in 1725. He became a peer in 1731, finished his Reports in 1732, and died in 1733. He opposed a bill for enacting that all proceedings in English courts should be in the English language, alleging, according to Foss, that if it passed, proceedings would have to be in Welsh in Wales. His Reports were not published till ten years after his death.

² James Montague came of a family which had already provided two Chief Justices of the King's Bench, one Commissioner of the Great Seal, and one Lord Chief Baron. He was born in 1666, and was called by the Middle Temple, but afterwards migrated to Lincoln's Inn. He sat in the House of Commons for Tregony and Beeralstone in 1695 and 1698. He supported the Aylesbury men in their contest with the House of Commons in connection with *Ashby v. White*, and was imprisoned by the House of Commons in consequence, in 1705. He afterwards sat for Carlisle, and became Solicitor-General in 1707 and Attorney-General in 1708, from which position he was removed in 1710. He became a serjeant and a Baron of the Exchequer in 1714, and Lord Chief Baron in 1722. He died the next year.

himself to matters of fact, he proceeded as follows:—

About a year ago, or a little better, there was a young lady left a widow by Mr. Duleau, and reputed a great fortune. Mr. Feilding thinking himself qualified for the greatest fortune, had a design upon this lady, and in August 1705 he applied himself to one Mrs. Streights to consult with her, and contrive some method how he might have access to court this widow. This Mrs. Streights had no acquaintance with the widow herself, but knew Mrs. Charlotte Villars was acquainted with her, and used to cut her hair, so the best thing they could think of at that time was to make Mrs. Villars their friend, that by her means he might have admittance into the lady's company; for he did not question if the lady but once had a sight of his very handsome person, she would have the same affection for him that he had met with from other ladies, even on their first seeing of him. Mrs. Villars was promised £500 to bring this affair about, and though she doubted with herself whether she ever could accomplish it, yet by these means she might perhaps make a penny of it to herself; and thereupon she promises Mrs. Streights to use her endeavour to serve the major-general, meaning Mr. Feilding, though Mrs. Villars could not be sure such an overture would be well received by Mrs. Duleau; yet being well acquainted with one, Mary Wadsworth, a young woman, not much unlike in person to Mrs. Duleau, she imagined it would be no difficult matter for her to set up the said Mrs. Wadsworth to represent Mrs. Duleau; and accordingly it was done, and Mr. Feilding proved so intent

upon the matter, that he went in a few days to Doctors Commons, to see for Mr. Duleau's will (and found thereby that Mrs. Duleau was left very considerable). And that he might judge the better whether she were truly the fortune she was represented to him, he took a copy of the said will, and soon after went to Mrs. Villars, and told her that what Mrs. Streights had said concerning Mrs. Duleau's fortune was true; and being very well satisfied with her fortune, he was resolved to get a view of her. Soon after, Mr. Feilding went to Tunbridge, and after two or three days' stay there, returned and called at Waddon, the place where Mrs. Duleau resided, with a pretence to see the house and gardens, but in reality it was to see the widow; he thought nothing else was to be done, but to give the lady a sight of the handsome person he designed to lay at her feet; but it happened the lady would not be seen herself, but the servants were permitted to show him the gardens, and he fancied himself that he had a sight of Mrs. Duleau too; for a kinswoman of Mrs. Duleau's looking out into the garden while he was there, gave him a sight of a woman at the window, and he presently concluded it could be nobody but Mrs. Duleau admiring Beau Feilding. About three days after Mr. Feilding's return from Tunbridge, which was about a fortnight after St. Bartholomew-tide last was twelvemonth, he told Mrs. Villars of his calling at Waddon, and that he had acquainted the Duchess of Cleveland of the fine gardens that were there, and he said that her grace had a great desire to see them, and therefore directed Mrs. Villars to go from her grace to Mrs. Duleau to ask the favour of her to see the house and gardens.

Accordingly Mrs. Villars went down to Waddon ; and Mrs. Duleau treated her very civilly, and told her whenever her grace pleased, she should see her house and gardens ; but as she was a widow she could not attend upon her grace ; but though the duchess was expected after this, yet she did not go, for indeed she did not know anything of the message. So the next time Mr. Feilding attempted to see her was at a horserace at Banstead Downs, whither he went for that purpose, but did not see her. After this, or some time before, he sent a letter to Mrs. Duleau's house, but the servants, when they saw the name to it, knowing the character of Mr. Feilding, threw it into the fire. When Mrs. Villars found that the Duchess of Cleveland knew nothing of her being sent to Waddon, and that it was only a contrivance of Mr. Fielding's to get an opportunity of seeing Mrs. Duleau, and that in truth he had never seen her, she resolved to play trick for trick with him, and thereupon proposed the matter to Mary Wadsworth, the woman I before mentioned to be of her acquaintance, but one that Mr. Feilding did not know, and one that would not worst herself much by such an undertaking, whether it succeeded or not. Mrs. Wadsworth, upon the first opening of it, readily embraced the offer ; and thereupon Mrs. Villars went to Mr. Feilding and told him she had proposed the matter to the lady (Mrs. Duleau), which she at first rejected, but at last did give a favourable ear to it, and that she did not fear but if matters could be prudently managed, his desires might be accomplished.

A little before my lord mayor's day last was a twelvemonth, she told Mr. Feilding that she had at last obtained of the lady the favour of a promise of

an interview, and that she was shortly to bring her to his lodgings, but he must take care not to let her know they were his lodgings, or to give her the least cause to suspect he had anything to do there. Accordingly Mrs. Villars, the evening of my lord mayor's day, brought Mrs. Wadsworth in a mourning coach and widow's dress to Mr. Feilding's lodgings; he was not within at the time they came thither, but being sent for came in soon after, and was extremely complaisant for some time; but at length, though he had been cautioned not to let the lady know they were his lodgings, yet he could not forbear showing her his fine cloathes, and what furniture he had, and in a little time after sent for Mrs. Margaretta to sing to her; and pretended he was so extremely taken with her, that nothing would satisfy him but being married that night; but she, with a seeming modesty, checked his forward behaviour, and made a show of going away in displeasure; but before they parted, he prevailed upon her to promise not to put off their marriage longer than Wednesday seven-night. My lord, Mr. Feilding rightly judged by this conversation what an interest he had fixed in the lady, and looked upon himself to be sure of her; he actually went to a goldsmith, and bespoke a ring, and directed himself what posy should be engraved. When the day came which had been first agreed on, sham pretences were made, not to seem hasty in so serious a matter, and the marriage was put off till the Friday following, being the 9th of November last was a twelvemonth; at which time Mrs. Villars and the lady came again to Mr. Feilding's lodgings, where he received her with an extraordinary transport of joy, and the marriage must immediately be proceeded on;

but she for some time framed several put-offs, and at length made an offer to have gone away ; but Mr. Feilding by no means would permit her to go without making her his own, which he was resolved should be done presently ; and to make all things sure, he ran out and locked the chamber door to keep her and Mrs. Villars in, whilst he went for a priest ; and taking coach immediately drove to count Gallas's, the emperor's envoy ; when he came to his gate he inquired of the porter for one Francisco Drian that was stiled The Father in red, upon account of a red habit he usually wore ; but he not being within, Mr. Feilding asked for another father, and one father Florence was called to him, whom he acquainted with the business he came about ; but whilst he was treating with father Florence, the father in red luckily came in, and Mr. Feilding immediately took him away with him in the hackney-coach to his lodgings. My lord, and gentlemen, we shall show you that this father in red stayed there about an hour, and then went away. We shall show your lordship likewise, that Mr. Feilding and Mary Wadsworth supped together, and after supper he was actually married to Mrs. Wadsworth. And that this marriage was consummated, we shall prove by several particulars, viz. That clean sheets were laid upon the bed, and all ceremonies performed that are usual upon such occasions ; and they actually went to bed together, and lay together all that night ; and the next day the lady and Mrs. Villars went away, and as Mr. Feilding supposed, to Waddon, the widow Duleau's house, to which place your lordship and the jury will find he directed his letters to her afterwards, and in the superscriptions stiles her the countess of Feilding. To

corroborate this evidence we shall likewise prove to your lordship, that about a week after he lay with her again at the very same lodgings ; and we can make it appear that he hath lain with her three several times since this first night, twice before, and once after his marriage with the duchess of Cleveland. My lord, we shall show you that he made her presents, furnished her with money, and treated her as his wife, until the cheat was found out, which was not till May after ; and then finding how he had been served, that instead of marrying a fortune of £60,000, he had been imposed upon, and married one not worth so many farthings, he discarded her in great wrath.

Witnesses for the prosecution were then called.

MRS. VILLARS—My lord, there came one Mrs. Streights to my lodgings, and wanted to speak with me (it was Bartholomew-tide was twelvemonth), but I was not at home ; when I came home they told me Mrs. Streights had been there, and left word that I was always out of the way when it was to do myself good ; she said it would be five hundred pounds out of my way if I did not come to her. I met with her and Mr. Feilding, and being acquainted with Mr. Feilding's design upon Mrs. Duleau, he asked me whether I knew the lady ? I said I had no particular acquaintance with her, but I used to cut her hair. He told me he was in love with her, and asked me whether I would assist him in his courtship ? And whether a marriage might be brought about ? I told him I could not tell ; I did not know whether I had that interest in the lady as to be made serviceable in such a design. Mr. Feilding inquired very strictly

after her, and said he would try means to come into her company, that he might gain her acquaintance; upon which we parted at that time. And about three days after Mrs. Streights came to my house again, and said Mr. Feilding would speak with me. I went to him, and he told me he found the lady was worth £60,000, as he had been told before. He asked me where it was she lived? I told him in Copthall-street court, near the Change. I told him likewise where her country-house was; that it was at Waddon in Surrey. Mr. Feilding told me he would go to Tunbridge, and call by the way to see the gardens; and by that means he might have an opportunity of seeing Mrs. Duleau; which he did accordingly. I was sent for again; and he told me he had seen the gardens, and they were very fine; and that he saw the lady through a casement; and, that she might have a more perfect view of him, he took divers turns in the garden, pulled out his watch, and set it by the sun-dial; and that he came round the country, and almost murdered his horses to get a sight of her. But he desired to be in her company, that he might have a full view of her. He desired me to go to Mrs. Duleau, and tell her that the duchess of Cleveland had heard a great character of her gardens, and was very desirous to see them. I went and acquainted Mrs. Duleau with it. She said she would not refuse a woman of her quality, but would take it as a great favour to show her any thing that belonged to her; but desired that it might not be that week, but the week following, because she was going to see a race on Banstead Downs. I told Mr. Feilding of this; and he made answer for the duchess of Cleveland, and said the duchess was not well, and could not go to see the

gardens. When I found that Mr. Feilding did not send me from the duchess but from himself, I was out of countenance, that I should innocently impose upon the lady. Mr. Feilding told me, he would go and see the race upon the Downs; and when he came back, he would send for me, and acquaint me whether he had seen the lady. And when he came to town again he sent Mrs. Streights to me to come to him; and when I came to him, he told me he saw Mrs. Duleau, he believed, upon the Downs. Mr. Feilding made a bow to them, and they to him. He said from thence he went to Epsom, and sent a letter to be delivered into Mrs. Duleau's own hands by a servant of his, not in a livery. I think it was accordingly delivered. Mr. Feilding told me Mrs. Duleau read it, and said it required no answer; and said no more. Mr. Feilding asked me whether I could not get a letter to Mrs. Duleau; he said he was much in love with her. I told him, I believed he was mistaken, and that it was another whom he saw. I perceived that he had no knowledge of Mrs. Duleau. I acquainted a young woman (Mrs. Wadsworth), whom I supposed he might have seen, with his inclination; she said she did not expect to be so happy, but wished it might be so. I engaged to Mr. Feilding to do what I could to bring it about. There were divers letters passed between them till my lord mayor's day. Divers presents were sent from Mr. Feilding, by me, to the lady. The first present was a gold apron struck with green; that was the first present Mr. Feilding sent to Mrs. Wadsworth. I did not think Mrs. Duleau, who was a great fortune, would agree to marry a man of Mr. Feilding's character. Mr. Feilding kept sending of presents and letters from

that time, from the latter end of Bartholomew-tide to my lord mayor's day. He sent a suit of white satin knots and gloves, and other things. He desired I would bring her to his lodgings on my lord mayor's day, at night; which I did, about nine o'clock, in a mourning coach. Mr. Feilding was not at home, but came immediately. When he came in he fell down upon his knees and kissed her, and expressed abundance of fond expressions. He asked her why she had stayed so long? And whether she loved singing? He said he would send for Margarettta to come up. When she came, Mr. Feilding bid her sing the two songs which he loved; which she did; the one was, *Charming creature*, and the other was, *Ianthe the Lovely*. After which Mr. Feilding sent for two pints of wine and some plumb-cakes. He urged very much to marry her, but she declined it, and made him a promise to come to him the Wednesday following. In the interim she sent him a letter, to acquaint him she could not come according to her appointment; but she would come to him on the Friday following, which was the ninth of November. Then he sent her another letter, to desire her not to fail, but come to his arms; and told her, that there wanted nothing but the holy father to join their happiness; for their hearts were all one already. And when Friday came Mrs. Wadsworth and I went to Mr. Feilding's lodgings again; he was not within, but came running into the room in a little time after, with a great deal of joy, and took Mrs. Wadsworth in his arms, and said, Nothing could ease his mind but a promise to make him happy, in marrying him presently. He said he would fetch the priest; but Mrs. Wadsworth refused his proposal, and would

have dissuaded him from going then ; and desired him to put it off till another time, and would have gone away. But he would not hear of it ; and said she had disappointed him before, and that he repented he had let her go away before ; but now he was resolved to make her his own before she went away. Mr. Feilding then went for the priest, and locked the chamber door after him, and took the key with him, for fear Mrs. Wadsworth should go away ; and ordered Boucher to let nobody into the dining-room till his return. Mr. Feilding returned in a little time, and brought a priest with him, in a long red gown lined with blue, and a long beard, and a fur cap. Mr. Feilding told her that this was the holy father that was to make them one. Mr. Feilding then ordered the man to lay the cloth, and fetch a dish of pickles to supper. At supper Mrs. Wadsworth seemed cautious ; and for fear the priest should not be in orders said, ' How shall I know that this is a priest in orders ? ' Mr. Feilding questioned him. Then the priest pulled a picture out of his pocket, about the bigness of a crown-piece, and told him that none but priests had such pictures. And that she might be still further satisfied, she desired another token.

After this, Boucher and the rest of the servants were ordered downstairs. Then the priest called for water, salt, and rosemary, to make holy water. Boucher brought up water and salt, but could get no rosemary. Mr. Feilding and I received it at the dining-room door. Then Mr. Feilding locked the door, and took the key in the inside. Mr. Feilding asked Mrs. Wadsworth whether it should be done in the bed-chamber or the dining-room. Mrs. Wads-

worth agreed that it should be done in the bed-chamber. There were none present but Mr. Feilding, Mrs. Wadsworth, the priest, and myself. The priest made holy water and blessed it; then he set Mrs. Wadsworth at the right of Mr. Feilding; the priest stood before them, and read the ceremony in Latin, as I understood; and Mrs. Wadsworth said she was not yet satisfied he was a priest. Then he laid down his book, took from under his gown a piece of silk like a scarf, that was marked with a cross in the middle; and said that none but priests used such a thing. Then Mrs. Wadsworth was well satisfied he was a priest. Says Mr. Feilding to her, 'Do you think, my dear, that I would have anybody to do this business but the holy father?' Mrs. Wadsworth was well satisfied till he came to that part, 'Wilt thou have this woman to thy wedded wife?' She desired it might be spoke in English by him, as well as he could. He did so. He asked Mr. Feilding 'Whether he would have this gentlewoman to be his wedded wife?' He said 'Yes, with all my heart.' He asked the lady then 'Whether she would have this gentleman for her husband?' She said 'Yes' faintly. 'But,' says Mr. Feilding, 'you don't speak it so earnestly as I do; you must say, "With all my heart and soul,"' which she did. Then the priest blessed the ring, and gave it to Mr. Feilding, to put it on the lady's finger. He said something in Latin, but what it was I know not. Then we went into the dining-room. Boucher brought up wine, and when all had drunk, the priest was discharged. Mrs. Wadsworth and I went into the bed-chamber, and I put her to bed. Mr. Feilding called her his dear wife, the countess of Feilding, and said he would

make haste and fly to her arms. After I had put her to bed, he went to bed to her; and ordered me to come into the room to see them in bed; which I did. I rose the next morning, and came to Mr. Feilding's room, where Boucher came soon after to light a fire; then I saw Mrs. Wadsworth in naked bed, with Mr. Feilding. Mrs. Wadsworth put on her clothes as she could, and a hackney-coach was called for her, and she went away. At parting with Mr. Feilding she told him she did not know when she could return; but about a fortnight after she came again. There were fires made in both rooms, and candles lighted up; clean sheets upon the bed, and everything prepared for her lying there. Mrs. Wadsworth went to bed. Mr. Feilding did not come home till late that night. I saw them that night in bed, and went into the room the next morning, and saw them in bed again; she rose and went away as before. Mr. Feilding desired her not to stay so long as she had done before, for if she did he would come and fetch her. She promised she would return sooner. Mr. Feilding kept sending of letters to her between times, which was about fifteen or sixteen days, till she came to him again. He desired her to come to him, and he would be at home to receive her. She accordingly came to him after having given him notice of her coming. He was not at home when she came, but she went to supper by herself. She had for her supper some toasted cheese, a pint of wine, and a bottle of oat ale. When he came home to her, he asked her why she did not send for something better for supper. They went to bed again as before, and I saw them in bed together. Mrs. Wadsworth got up in the morning, Mr. Feilding treated her, and

away she went as before. Then Mr. Feilding kept writing to her, and desired her to come to him again, as being the last night she should lie with him at his lodgings, for he was going to leave his lodgings for altogether, and be with her grace, the duchess of Cleveland. Mrs. Wadsworth came, but neither Mr. Feilding nor Boucher were at the lodgings; but she had not been long there when Boucher came in, and said that he had brought his master's night-gown and slippers from the duchess of Cleveland's.

In answer to counsel's questions the witness said that the reason for keeping the marriage secret was that Mrs. Duleau had a father alive, who had a part of her fortune in his hands, and Mrs. Wadsworth pretended to be afraid of disobliging him. The reason of its being discovered was that Mrs. Wadsworth sent to Mr. Feilding for money, and he found that he had not a woman of that fortune which he took her to be.

When Mr. Feilding did find it out, he took Mrs. Streights into a closet at the duchess of Cleveland's, and sent for me there; then Mr. Feilding wanted to have the presents returned. Mr. Feilding then beat me, and asked me whether that was a fit wife for him? And then he took hold of a thing made of steel at one end, and a hammer at the other end, and told me if I would not unsay what I had said of his marriage with Wadsworth he would slit my nose off; and that he would get two blacks: one should hold me upon his back, and the other should break my bones.

POWEL J.—One would have thought you should have been afraid to have seen Mr. Feilding.

VILLARS—My lord, it was not till then found out.

FEILDING—By what name did Mrs. Wadsworth go?

VILLARS—By no name at all.

FEILDING—Did I ever appear with her in public?

VILLARS—No, never.

FEILDING—My lord, I desire it may be asked her, how she came to think that I should send such mean presents as she hath mentioned, to a lady of Mrs. Duleau's fortune? They were not at all suitable to Mrs. Duleau.

POWEL J.—Ay, Mrs. Villars, what say you to that? Mr. Feilding thinks it a very strange thing that he should send such trifles to a lady of Mrs. Duleau's quality.

VILLARS—He did think at that time that he made his addresses to Mrs. Duleau; and I am sure such presents were sent, and he was really married to her, and married her for Mrs. Duleau.

In answer to further questions, Mrs. Villars said that Mrs. Feilding told her that Mr. Feilding beat her at Whitehall, and said she should have occasion to bring Mrs. Villars to prove that Mr. Feilding was married to her on the 9th of November before. Mrs. Villars went with Mrs. Feilding to the Duke of Grafton about three weeks after the beating, and told him she was sure that Mr. Feilding was married the 9th of November before. She went to the Duke of Grafton about a fortnight or three weeks before

the difference between the Duchess of Cleveland and Mr. Feilding.

POWEL J.—Why did you not apply yourself to Mr. Feilding for the reward?

VILLARS—I was to have no reward.

FEILDING—Mrs. Villars, what reward did the duchess of Cleveland promise to you?

VILLARS—I never saw the duchess of Cleveland; and I was never promised any reward.

POWEL J.—Was you not to have had a reward for helping Mr. Feilding to Mrs. Duleau?

VILLARS—Mrs. Streights left such words at my lodgings, but I had no promise of it from Mr. Feilding.

Montague then said that he would prove the marriage of Feilding to the Duchess of Cleveland; but Feilding said that he did not deny that marriage, and it was not proved.

Mr. Serle, servant to Mr. Cottle, proctor to the Prerogative Court, was then called, and proved that Feilding had procured a copy of Mr. Duleau's will about the beginning of the Michaelmas term.

Mrs. Duleau was next called, and deposed that she did not know Feilding, that he came to her house about Bartholomew-tide was twelvemonth, but he did not see her. She heard that letters were brought to her house from Feilding, but they were received by the servants; she was then at her father's, and had left orders that no

letters should be taken in but such as came from her relations. Feilding came to her house with the character of Major-General Villars.

I did not see him, but here is the lady that saw him out of the window, who it seems he took for myself.

LADY—He was there about Bartholomew-tide was a twelvemonth; I did see him through a window, and informed my cousin of it.

COUNSEL—Then call Mr. Boucher.

BOUCHER—My lord, I went with Mr. Feilding to my lord mayor's show last lord mayor's day was twelvemonth. He went in his chariot to Mr. Feilding's, a linen-draper's at the Three Legs in Cheapside. I looked into the balcony, and saw Mrs. Villars there. My master came down again, and went to Sir Basil Firebrass's;¹ from thence I was ordered to go home, and meet my master in Bond Street, which I did. He asked whether anybody had been at his lodgings to inquire for him; I said No, and went home again.

He then relates, much as Mrs. Villars did, how a lady and Mrs. Villars came to Feilding's lodgings; he sent for Mrs. Margaretta, who accommodated the lady with two songs, and Mr. Feilding treated them with a bottle of wine and

¹ Sir Basil Firebrass, Firebrace, or Ferebras, the second son of a loyalist who is chiefly remembered as the page who promoted Charles 1.'s two abortive attempts to escape from Carisbrooke, was sheriff of London in 1687, and was created a baronet in 1698.

a plumb-cake. This was my lord mayor's day was twelvemonth, on the 29th of October. Afterwards he ordered rooms to be got ready for the two ladies. When they came he was not at home—

but in a little time he came and went up to them. Some time after that he came downstairs in great haste, and said, 'Boucher, go and bespeak a dish of pickles.' I did so, and brought over a cloth, and the rest of the things, and left them in the window. I stayed by the stairs till he came back in a hackney-coach, with a priest along with him in a long gown, and a long beard, and a fur cap; I knew him to belong to the emperor's envoy, and I heard Mr. Feilding call him reverend father. Then I was ordered to set the table and glasses and wine, and things of that kind, upon the sideboard. I waited at table all the while. When supper was over, Mr. Feilding ordered me to go down and fetch water, salt, and rosemary. I went down and got water and salt, but could get no rosemary. Then I was ordered to go down, and they were locked in about three-quarters of an hour. He then called, 'Boucher,' says he, 'will you fill some wine?' I did so, and perceived upon the thumb of this lady, upon her left hand, a plain gold ring, which before supper she had not.

When this was over the priest went away. Afterwards Mrs. Villars and the lady went to bed, and the next morning he saw Fielding and the lady in bed together. Afterwards, about the 25th of November, Mrs. Villars and the lady

came again, and Feilding and the lady slept together as before.

Soon after this, I understood by some of the duchess of Cleveland's servants that Mr. Feilding was married to my lady duchess. At the same time Mr. Feilding ordered me to go to Mrs. Heath's to bring his night-gown, cap, and slippers to the duchess of Cleveland's house, and to attend the next morning with clean linen, his wig, etc.

About the 5th of December Feilding met the lady again at Mrs. Heath's, coming from the Duchess of Cleveland's. That was the last time he saw the lady in Mr. Feilding's lodgings.

Mrs. Martin, sister to Mrs. Heath, Feilding's landlady, corroborated Mrs. Villars's evidence as to the visits of her and another lady to Feilding's lodgings, one on lord mayor's day, the other in November.

COUNSEL—Did you ever see anybody come at them, whilst they were there, in an extraordinary habit, red gown, etc?

MARTIN—There was a tall man knocked at the door, in a long gown, blue facing, and fur cap, with a long beard. He was conducted to the major-general's upstairs.

COUNSEL—Do you remember the supper that night?

MARTIN—I remember a dish of pickles.

Mrs. Heath said that Major-General Feilding took lodgings in her house about the beginning of October last was twelvemonth. *Mrs. Villars*

used to come into the witness's parlour, and told her there frequently that she came from a lady of quality.

COUNSEL—Did you ever see this lady?

HEATH—I never saw her, my family being retired from lodgers.

COUNSEL—What discourse did you hear from Boucher?

HEATH—He said that a lady of quality was there, and that she came two or three times with Mrs. Villars.

COUNSEL—What time did you hear of that lady's being there first?

HEATH—On my lord mayor's day; for I dined in the city, and when I came home my family acquainted me with it. Mrs. Villars came down to me one night, which was the night the man in red was there, but I did not see him.

She said that her lady was a lady of quality worth £80,000; she showed me a little picture, which she said was her lady's picture; that night she came to me, and desired that the lady and she might lie in a room up two pair of stairs; for they had stayed late, and did not care to go home. I disputed it, but she said she should have no trouble, for Boucher should make the bed, and the general's sheets should serve them.

COUNSEL—Do you remember at any time after that that Mr. Feilding came to you, and railed against Mrs. Villars?

HEATH—He did come to my house, after he had discharged my lodgings, and he told me that Mrs. Villars was a very bad woman, and that she imposed

a woman of the town upon him for a woman of quality. It was two or three months ago, but I do not well remember the time. Says he, 'Damn her, I do not know how she contrived it, but I saw her at a woman of quality's house in the country.' He said likewise, 'That he thought he saw the lady look out of a window of a lady of quality's house in the country.'

POWEL J.—Mrs. Heath, did you ever hear or believe that they were married?

HEATH—I did not believe it a marriage, but a conversion; because his man came down into the parlour and asked for salt and water, and rosemary; which occasioned these words, 'Lord,' said I, 'I fancy they are making a convert of this woman,' because they said it was a priest above. Another man at that time said there was a priest above.

FEILDING—Did my man at that time tell you I was married to that woman, or at any time else?

HEATH—Nothing, my lord; nobody told me Mr. Feilding was married at that time.

Mrs. Margaretta was never in Feilding's lodgings but once, and then there was nobody there but a gentlewoman in black, Mr. Feilding, and herself. She never heard the lady speak, for he desired her to sing that song, *Ianthe the Lovely*; for he said he had the original of it, and had translated it out of the Greek.

POWEL J.—Did Mr. Feilding pretend it was to entertain his wife?

MARGARETTA—No, he desired me to come to him, and left a direction at my lodgings, and said there

were some people of quality there ; and when I came I saw none but the lady that sat by the fire.

Mrs. Price, who lived with *Mrs. Heath*, was called and corroborated the other witnesses as to the visitors at *Mrs. Heath's* house, but added nothing new.

Thomas Sone sold *Feilding* a gold ring about a year ago. He graved a posy on it whilst *Feilding* took a turn in the alley ; the posy was by his direction, *Tibi Soli*.

Wilkins saw *Feilding* buy the ring, and write down *Tibi Soli*.

The Register of Doctors Commons produced a ring which was brought to him by my lady duchess's proctor with the letters in the case, and the ring was identified by *Sone* as the one which he had sold to *Feilding*.

Mr. Cooke, proctor, said the ring was first of all brought by the lady *Mrs. Feilding* ; it was afterwards in his brother's custody, and was brought to him by his brother, and he delivered it to the register.

Constantine Pozzy was servant to the emperor's envoy, and knew *General Feilding* by sight. The general came one night to the envoy's house, and asked for the father in red and another priest who were both out. He was then introduced to father *Florence*, and while he was talking to him the father in red came in, and *Mr. Feilding* and he went away in a

coach together. This was in the beginning of November.

Father Florence deposed that he saw Mr. Feilding on Friday night, post-night, about the beginning of November.

Constantine Pozzy came under my chamber window, called to me and said, Here is Major-General Feilding, he wants one of the chaplains, he desires to speak with you. I went to him immediately, and introduced him into the hall. The major-general spoke to me in French. Sir, says he, I come to look for the father in red, but I understand he is not at home ; you will do as well ; be pleased to go along with me. He told me that he had courted a young lady for some time, and now found her well-disposed, and therefore desired me to go along with him to marry them. I understood there had been some treatment between him and the duchess of Cleveland, and therefore I asked him whether it were the duchess? He did not inform me. I told him I did not care to do anything out of the house ; and desired him to let me ask my lord ; says he, Give my service to count Gallas, and tell him. I went up to him and spoke to him, and told him the business Mr. Feilding came about. He bid me, says he, What you do, do it wisely. When I came down Mr. Feilding was gone ; I was told that the gentleman in red came in, and that Mr. Feilding and he were gone away together.

COUNSEL—Call Matthew Paul (he was called and sworn). Do you give my lord and the jury an account of Mr. Feilding's beating a gentlewoman ; and if any marriage was claimed at that time by a gentlewoman.

PAUL—Mr. Feilding came to Whitehall gate in a chariot; lit out of it. There was a hackney-coach brought two women; one of these women got out of the coach and came up to Mr. Feilding; Mr. Feilding called her 'Bitch'; the lady called him 'Rogue,' and said, She was his lawful wife; at that, Mr. Feilding having a stick, he punched it at her; it happened upon her mouth, and made her teeth bleed. He ordered the sentry to keep her till he was gone, and he would give him a crown. She said, as I have told you before, That she was his lawful wife, and for that reason they did not care to meddle with her. I cannot justly tell what time this was; it was as near as I can judge about the latter end of May.

Mrs. Feilding was called, and identified by Paul as the woman he saw.

Mr. Seymour deposed to having seen Feilding beat Mrs. Feilding at Whitehall gate some time in the last summer. She said to him, 'You are a rogue, I am your lawful wife.'

COUNSEL—Captain Eaton, do you know anything of Mr. Feilding beating a woman?

EATON—I was at the King's Arms tavern, and whilst I was there the drawer came to me and told me there was two women would speak with me; this woman (pointing to Mrs. Feilding) and another, whom she called mother. She told me she was married to Mr. Feilding before he was married to my lady duchess, and desired me to acquaint my lord duke of Northumberland with it, that the duchess of Cleveland might know of it; I told her I did not design to concern myself about it. She told

me she had been much abused by him. This was some time before the 18th of August; it was the latter end of June, or beginning of July.

COUNSEL—Was it before the difference between Mr. Feilding and my lady duchess?

EATON—It was before that time.

Counsel then proved three letters to be in Feilding's handwriting, and they were read. One was addressed 'To the Countess of Feilding,' another 'To my dearest wife, the Countess of Feilding,' and the third was not addressed at all. Two were about a meeting at 'Puggy's'; one was about some presents of knots and some damask, and they were all couched in terms of affection and referred to the addressee as his wife.

Villars saw Feilding write them; he delivered them to her, and ordered her to give them, deliver them, to this wife. He used to call her Puggy.

COUNSEL—My lord, we have done for the present (having clearly proved his marriage to this woman) without Mr. Feilding denies his marriage to the duchess of Cleveland.

FEILDING—My lord, I admit my marriage to the duchess of Cleveland.

Feilding was then called on for his defence; which as described by himself was that the whole case depended on Mrs. Villars, and she was forsworn, because she had sworn that she

cut Mrs. Duleau's hair, which Mrs. Duleau denied. Her reputation was very bad, as he would call witnesses to prove. She had been in the custody of the master of Bridewell, and had there received the correction of the house, and was therefore not fit to appear as evidence. She swore that the singing woman was at the marriage, which the singing woman contradicted. 'And as to this Mrs. Wadsworth, who they set up, she was married to another man, one Bradby.'

Powel J. pointed out that it could not be denied that Mrs. Villars was an ill woman, but her evidence was well supported by circumstances of time and place; Feilding, however, might call witnesses to her reputation, and they should be heard.

'I think you say Mrs. Wadsworth was married to another man at the same time; indeed that will be to the purpose, if you can make it out.'

Elizabeth Basset was then called, and deposed that her father-in-law kept the register of the marriages in the Fleet; but he was sick, and left them in her charge; he was too sick to be there that day; she had kept the books for the last twelve months, during which time nobody else had come at them. Some time ago a woman came to her house, and said she wanted to speak to Mr. Basset; when she was told she could not speak to him because he was ill—

Says she to me, here is a marriage in your book of one Lilly Bradby and Mary Wadsworth. Says she to me, if you will put it out of your book, I will give you a piece of money.

COUNSEL—Is this the woman that made you this offer?

BASSET—I will not swear to the woman; I never saw her but that one time, my lord. I am not positive in the matter; but I believe it is.

The certificate of marriage read:—

‘Lilly Bradby married to Mary Wadsworth the 28th of October 1703. The man of St. James’s, the woman of St. Margaret’s, Westminster.’

POWEL J.—Who used to write down the certificates in the Register book?

BASSET—Several people, my lord, we hired to do it.

It appeared that the page of the register where the entry occurred was in her father-in-law’s writing, but the entry in question was in a different handwriting from the rest. But she then said that her husband’s brother used to make entries sometimes. She did not know when the entry was made.

COUNSEL—Do you remember that there were any gentlemen with you to examine the book?

BASSET—Yes, sir, there were.

COUNSEL—Did you show them this very book?

BASSET—I did not, because Mrs. Wadsworth said there would be some trouble about it.

COUNSEL—Have you several registers at the same time?

BASSET—Yes, there are several ministers, and therefore entries are made in several books.

COUNSEL—Why were you so friendly to Mrs. Wadsworth when the gentlemen came to examine the book for this register, and you showed them other books instead of this?

BASSET—I did not show them that, because Mrs. Wadsworth desired me.

COUNSEL—What did Mrs. Wadsworth give you?

BASSET—She gave me nothing. I will not say it was Mrs. Wadsworth.

Mrs. Drinkwater had known Mrs. Villars above a year.

POWEL J.—What is her character and reputation?

DRINKWATER—I know nothing of that. But I know so far of her, that she said she was married to Mr. Feilding on the 5th of November; she accordingly gave it out that she was with child by him. And that she told me that the duchess of Cleveland proffered to give her £200 and £100 a year for fifteen years, if she would prove the marriage with Mr. Feilding; but that she would do more for Mr. Feilding for £40 than she would do for the duchess of Cleveland for a much greater sum. And said it was purely want that made her comply with my lady duchess's desire. I have read all the letters between Mrs. Villars and the colonel; and I never heard of any marriage between Mrs. Bradby and Mr. Feilding, but between Mr. Feilding and Mrs. Villars.

COUNSEL—When was this discourse between you and Mrs. Villars?

DRINKWATER—I cannot exactly tell the day ; but the time they were married was the 5th of November was twelvemonth, as she said.

The discourse took place at Mrs. Villars's lodgings about three months before, where Mrs. Villars had invited her.

COUNSEL—When did you first tell the colonel of it?

DRINKWATER—I do not know justly the time.

COUNSEL—How long have you been acquainted with colonel Feilding?

DRINKWATER—Not but since this thing happened. I never had any further conversation with him than to speak in her behalf to him. But I have this further to say, that an outlandish man came to me about a fortnight's distance, and said, if I could do anything on the behalf of the duchess of Cleveland, it would be a considerable sum of money in my way.

Mrs. English deposed that she went to Mrs. Villars's lodgings the morrow afterlast Valentine's day to ask for some money Mrs. Villars owed her, and she said she would send her spouse for some ; she said she was married to Mr. Feilding on the 5th of November, and she would have money from Mr. Feilding or she would send her soul to the devil.

Mrs. Fletcher deposed that Mrs. Villars had lived with her for a twelvemonth about a year ago ; she confessed to having had two bastards and to having been in the Bridewell. On cross-

examination by the court her own character appeared to be unsatisfactory.

Mrs. Gardiner said that on the 6th of November of the year before, Mrs. Villars came into her house and said she had been abroad all night, and was married to Mr. Feilding; she gave a pair of gloves to the witness and another woman, and gave favours and garters in the house. She asked for it to be kept secret. About a fortnight or three weeks before Christmas Mrs. Bradby came into Mrs Villars's lodging, and happened to fall down as if in a swoon, and within a few days fell in labour.

Mrs. Drinkwater corroborated Mrs. Gardiner as to Mrs. Bradby's having been delivered of a child; but apparently she only knew of it through the midwife.

The Keeper of the House of Correction at Westminster said that Mrs. Villars had been a prisoner in his house about five years before. She had not the correction of the house because she was then with child.

MINORS—My lord, in October was a twelvemonth, when Mr. Feilding lodged at Mrs. Heath's, I was then with Mrs. Feilding almost every day, except Saturday and Sunday. I dined there, and there was Mrs. Margaretta, and sung those songs which she spoke of now. Two or three days after this, Mr. Feilding communicated to me his treaty of marriage with the duchess of Cleveland, and spoke

to me to settle some writings between them. (He produced the writings.) Mr. Feilding desired me that I would be ready with them by the beginning of November or the latter end of October. This is all I can say of the matter. As to the women, I saw these, and abundance of common women of the town; I saw him take no more notice of Mrs. Bradby than he did of any of the others.

Mr. Comley said there was a person called Mrs. Villars taken up about a fortnight before; he believed it was the same person as the witness. He gave her a bad character generally.

Mr. Florence was called, but was unable to say whether a letter produced was in the hand of Dryan (the father in red). Dryan could speak a little English; he was in the country about eleven months; he was learning English.

POWEL J.—Do you think that if he were desired to speak words, ‘I take this man for my husband,’ that he understood so much?

FLORENCE—I believe he might say what another said before.

Montague then summed up the evidence for the prosecution. He pointed out that he was not bound to defend Mrs. Villars’s character, and that her story was corroborated in various particulars. As to the previous marriage of Mrs. Wadsworth, nothing had been proved as to Lilly Bradby, and no witness to his marriage had been

called. As to the entry in the register, it was written in a different handwriting from the rest of the same page; it was written at the bottom of the page, and it was written below the ruled lines on the page. All these facts were evidence that it was a forged entry. In addition to this, this very book was shown to witnesses for the prosecution, in spite of what Basset had said, and the place where the entry of Mrs. Wadsworth's marriage now was, was blank then. Mr. Feilding knew that Mrs. Feilding was with child by him, and to prove this counsel produced a letter, which had been proved by Boucher and Beale, from Feilding and addressed 'To the best of wives, Anne, countess of Feilding, at Waddon,' and dated Novem. 14, 1705; which being read referred to his hopes of a son, whom he called 'a young lord Tunbridge.'

Longford and *Roscorloe* were called and said that they had both seen the register produced, and had not seen the entry in question. The latter said that Basset had brought the book, and they looked back for three years.

We found no such entry as she shows here in this book. We asked her again whether there were any other books of entries of marriages? She said, No. I asked her whether there had been any one there to see after such a certificate? She said there was a woman and a man about a week or fortnight ago. I asked her whether she showed them this book? She

said she showed them this book, and they gave her a shilling for searching it. She said positively there was no such certificate entered in the book, and there was no other book for the entry of marriages. We searched the month of October more strictly; we looked for the very certificate with the greatest care and industry that could be. We went to Basset's house, who, this woman said, was not at home. She laughed in her sleeve, and said he was a doating man; and if he spoke two words he could not speak a third. I do really believe this to be the book. I took good notice of the blank where this certificate is entered, and did remark that there was a vacant space under this certificate where there was no writing. Mr. Longford and I turned back again to the year 1705, which was put before the year 1704, and observed it then, as it appears now, except this entry. I do believe it to be the same book we saw.

Powel J. then summed up, recapitulating the evidence, almost without comment except to point out that Mrs. Villars's evidence was worthless unless corroborated, but that corroboration of almost every part of it was forthcoming.

The jury retired, and after some time brought in a verdict of Guilty. Feilding had obtained the Queen's warrant to suspend execution of his sentence if he was found guilty, and he took advantage of it to take several objections to the indictment, which were overruled. The next Session he appeared for judgment, and craved the benefit of his clergy, which was allowed, but

having the Queen's warrant to suspend execution, he was admitted to bail.

Afterwards the marriage between Feilding and 'the said most noble lady, Barbara, duchess of Cleveland' was declared null by the Court of Arches on account of Feilding's marriage to Mary Wadsworth, which was declared valid.

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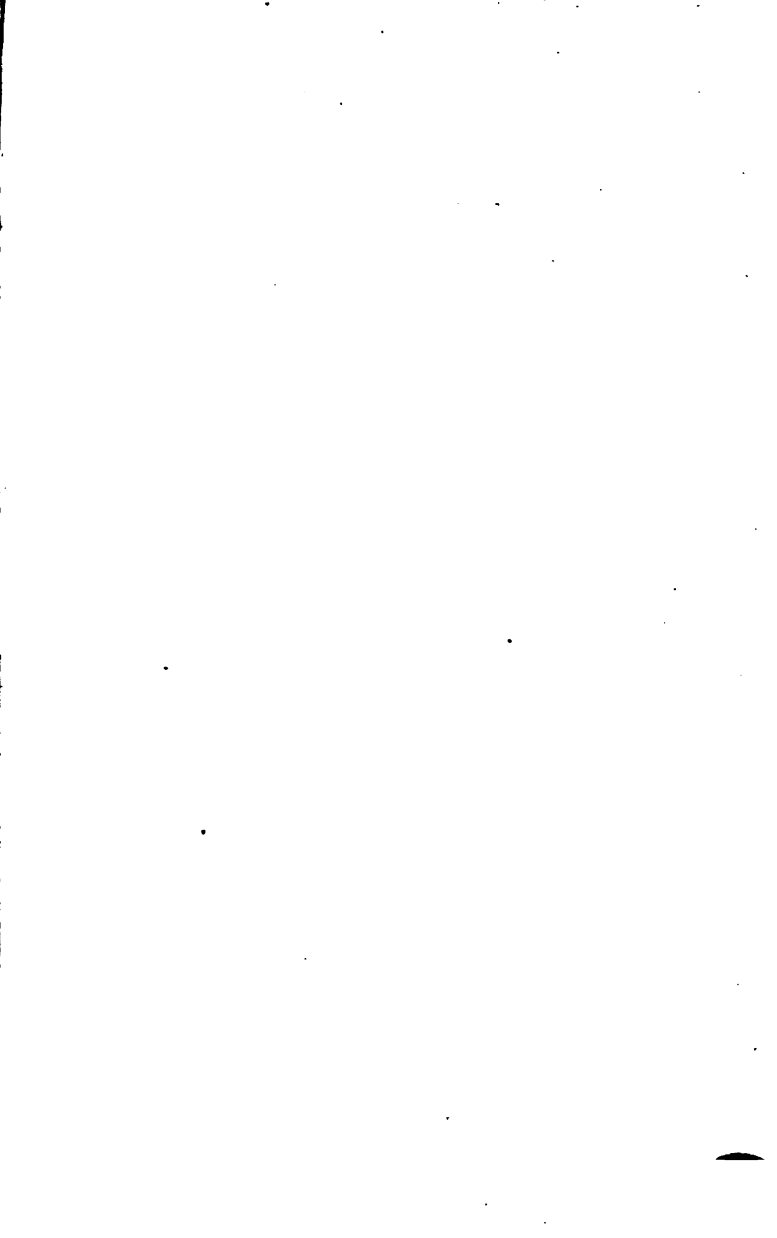
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